

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

BOARD MEETING

BE IT REMEMBERED, that on the 19th day of
September, 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:

CLIFF KEENE - President
MITZIE McKINNEY - 2nd Vice President
JANE POWELL - Treasurer
VEDA TRAYLOR
PATRICIA TURMAN
LAJOY GORDON
NICK DOWNEY
BRENDA GRAY
SHERRON WEST

ALSO PRESENT:

KATHY WITTUM - Director
ARNOLD M. JOCHUMS - Assistant Attorney General

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

2 MR. KEENE: The first item on the agenda is the
3 public hearing on proposed rules and regulations
4 changes, which is to include the student
5 extracurricular activities and the registration
6 prerequisites. I believe the way we kind of
7 discussed going through this is to go page by page?

8 MS. WITTUM: Arnie was wanting to go through
9 what brought us to the meeting first.

10 MR. KEENE: Okay. So does anyone want to start
11 out with a history of why we've decided to re-do our
12 rules and regs? Anyone want the floor?

13 MS. WITTUM: Do you want me to do it?

14 MR. KEENE: Okay, Kathy.

15 MS. WITTUM: The board is proposing to change
16 the format of the rules from an older version that
17 kind of correlated the statute and the rules together
18 to bring them into compliance with a mandate that's
19 been required by Act 1478 of 2003. All state
20 agencies are required to bring their rules and regs
21 into compliance with this act. The revisions, we
22 believe, will make it easier for practitioners,
23 establishment owners, school owners and students, as
24 well as the general public to educate themselves on
25 the standards by which the cosmetology industry is
26 held in compliance. The appropriate marked copies

1 were prepared along with the necessary questionnaires
2 and statements. And copies were submitted to the
3 Secretary of State's office, the Arkansas State
4 Library and the Arkansas Bureau of Legislative
5 Research as required. A public notice was sent to
6 the Arkansas Democrat Gazette for publication and was
7 also posted to the Secretary of State and the Board
8 of Cosmetology's website. A marked copy of the
9 proposed rules changes was mailed to each cosmetology
10 school owner in Arkansas, as well as the Arkansas
11 School Owner's Association and NCA of Arkansas
12 formerly known as Hairdresser's Association. There
13 are two areas for which substantive changes are
14 proposed to the existing regulations. This
15 regulation is §17-23-401(2). Under that section
16 number sixteen is proposed to be changed to revise
17 the existing language to be in compliance with ADA
18 requirements that concern service animals when they
19 are used by people with disability. Number seventeen
20 of that same section is being proposed to be changed
21 to revise the definition of "infectious disease" to
22 clarify that it does not include HIV persons.
23 Simultaneous to the publication of the public notice
24 two issues developed that school owners and
25 instructors disagree with. One issue concerns a

1 policy that was implemented in October 1994, which is
2 called the "extracurricular activity student credit
3 hour policy". The second issue concerns registration
4 prerequisites. And these two issues will be
5 discussed during the public hearing today as they may
6 prompt board consideration for additional changes to
7 the existing rules.

8 MR. KEENE: Okay. Now do we want to go through
9 page by page?

10 MS. WITTUM: Rule by rule.

11 MR. KEENE: Well, I'm going to let you take that
12 since you have a copy of that.

13 MS. WITTUM: Okay.

14 MR. JOCHUMS: Maybe it would facilitate things
15 if we inquire of our audience if there are people
16 here that came prepared to talk about the rules just
17 to get a feel for the nature of the meeting.

18 MR. KEENE: Well, I know that there was a -- I
19 know there was a letter from Tracy Akard, requesting
20 to talk. Is Tracy here? Okay. Is there anyone else
21 in the audience that has particular issues with the
22 rule changes?

23 MR. JOCUMS: What I thought we might do is --
24 probably people came to talk about one thing or
25 another so we wouldn't need to talk about the rules

1 if nobody wanted to talk about them. So if we could
2 at least get a notion of the people that came to
3 speak that way you could structure your discussion.

4 MR. KEENE: Okay. I guess could the ones that
5 wanted to speak on a particular issue stand and tell
6 us the issue?

7 MR. JOCHUMS: Sure.

8 MR. KEENE: Give me your name as well.

9 MS. BOLDEN: My name is Cheryl Bolden. I'm a
10 student at Margaret's Hair Academy in Russellville.
11 And this statement is from all -- it's agreed upon
12 from all the students at my school. And I'd just
13 like to read it to you right quick.

14 MR. KEENE: First, could we have the area that
15 you're wanting to discuss?

16 MS. BOLDEN: This is about the accredited hours
17 for extracurricular.

18 MR. KEENE: Now, we'll let you make your
19 statement later, but I want to find out the subject
20 matters first.

21 MS. BOLDEN: Okay.

22 MS. KENNEDY; My name is Linda Kennedy. I'm an
23 instructor at the Sylvan Hills High School Vocational
24 Department. And I wanted to speak to you about the
25 prerequisites for registration.

1 MR. KEENE: Okay. Thank you. Tracy?

2 MS. AKARD: Tracy Akard, Hot Springs Beauty
3 College. And I would like to speak about the
4 extracurricular activities.

5 MS. JONES: Karla Jones and I'm director of
6 education for Arthur's Beauty College and I want to
7 speak about the extracurricular activities for the
8 students.

9 MS. HUGHES: If I may, I'm Jenny Hughes from
10 Riverside in Newport. And I just have a question
11 pertaining to the yellow book about how do you freeze
12 or hold students' hours.

13 MS. CREEKMORE: Dawn Creekmore. I represent
14 Eaton's Beauty Stylist College. I also want to speak
15 about the extracurricular hours.

16 MR. KEENE: Anyone else? So it looks like the
17 extracurricular and the prerequisite and then -- I
18 didn't quite understand what -- oh, freezing of the
19 hours?

20 MS. HUGHES: Yes, sir.

21 MR. JOCHUMS: It's probably in the rule book
22 where it says after a certain amount of time that
23 they start over? It's been a --

24 MR. KEENE: Oh. Oh, okay.

25 MR. JOCHUMS: That's in the regulations. I

1 can't remember where.

2 MR. KEENE: So do you want to just -- since
3 there doesn't -- don't seem to be any problems with
4 all the other changes in the rules, do we want to
5 just skip directly to the extracurricular?

6 MR. JOCHUMS: We've got a hand up.

7 MR. PIPES: Dwight Pipes, Riverside. Again, I'd
8 like to get maybe more clarification on -- on I guess
9 maybe the definition of an "infectious disease" and
10 how it relates to cosmetology if I could. I'd like
11 quite a bit more detail.

12 MR. KEENE: Okay. Anything else? How do you
13 want to proceed, Board? Do you want to just go into
14 the extracurricular and go from there because that
15 seems to be the majority of what people are here to
16 talk about?

17 BOARD MEMBERS: That's fine.

18 MR. KEENE: Is that the way you want to go?

19 MS. WITTUM: Yeah, that's fine.

20 MR. KEENE: I don't see the point of going rule
21 by rule if there's no objection to them. Cheryl
22 Bolden?

23 MS. BOLDEN: Yes?

24 MR. KEENE: You wanted to speak on the
25 extracurricular?

1 MS. BOLDEN: Yes, sir.

2 MR. KEENE: And you had a letter you wanted to
3 read?

4 MS. BOLDEN: Yes, sir.

5 MR. KEENE: Okay.

6 MS. BOLDEN: Good morning, board members. We,
7 the students of Margaret's Hair Academy oppose the
8 decision to end credited hours to students attending
9 hair show functions. As students we learn from our
10 textbooks, workbooks, theory class, working on our
11 mannequins, and servicing clients. We are also
12 taught that cosmetology is an ever changing
13 profession. And as cosmetologists we must stay
14 educated with the changing trends and styles. We
15 feel that attending hair show functions is beneficial
16 to our education as we are able to attend classes and
17 learn techniques and trends. We feel that attending
18 hair show functions is part of education and we treat
19 it as such. Our instructor is always with us and
20 requires students to be present for roll call thirty
21 minutes prior to entering Hair Show. After roll call
22 we attend classes of interest and learn new -- learn
23 about new products and so forth. Most of us students
24 attending Margaret's Hair Academy have families and
25 we must make arrangements for child care, as well as

1 save up enough money to purchase a ticket and travel
2 to the hair show. We have fundraisers outside of
3 school hours on our own to help with travel costs,
4 such as car washes, garage sales, and dinners. We do
5 this to gain as much knowledge as we possibly can
6 about the profession of Cosmetology. This industry
7 is very competitive, therefore, "knowledge is power."
8 We will graduate one day and become licensed
9 cosmetologists and so we must be able to give our
10 clients what they are looking for, no matter what the
11 style may be. We do not want to be limited to the
12 basics. After all, if a client is not happy they
13 will find another stylist that will give them what
14 they are looking for. We ask that the board
15 reconsider it's decision and once again credit hours
16 to students for attending these educational events.
17 We appreciate your time and consideration on this
18 matter.

19 MR. KEENE: Thank you. Would this be a good
20 time to kind of explain our reasoning as to why we've
21 kind of gone this direction or would you rather go
22 ahead and hear from the -- ?

23 MR. JOCHUMS: I think that we should at least
24 explain that there is currently no rule on --

25 MR. KEENE: That's one --

1 MR. JOCHUMS: -- extracurricular and that there
2 has been a policy that a certain number of hours were
3 accepted that was created by --

4 MR. KEENE: Previous board or --

5 MR. JOCHUMS: -- directors. However, there was
6 never any board action --

7 MS. WITTUM: It was. In October of '94 there
8 was a memo that went out to the schools from Deborah
9 Norton explaining that the board had implemented this
10 extracurricular student hours policy.

11 MR. JOCHUMS: Okay. I stand corrected. And
12 what brought this up is recently the staff has taken
13 the position that the statute doesn't go that far and
14 has indicated that they wouldn't be counted as I
15 understand it.

16 MS. WITTUM: We haven't said it wouldn't be. Of
17 the approve -- or the requests for approval that have
18 come into the office recently, I believe one for the
19 Student Appreciation Day in Hot Springs, there's also
20 a Tulsa event that's going on, I think later this
21 month. Those -- when they came in and I started
22 looking at it, I had concerns about the policy
23 itself. When I started researching the statute, as
24 well as the rules and regulations and in my non-legal
25 opinion, I didn't see where the statute allowed for

1 such a policy to have been implemented. When I
2 checked with Arnie and started checking with the
3 board my concerns grew because there appeared to be
4 some conflicts within that policy. That's the reason
5 why everything was suspended and no approvals have
6 been given to this point until the board had a chance
7 to discuss it.

8 MR. KEENE: I want to back up just a little bit
9 here. I really feel like we should have -- or I
10 should have introduced you since this is actually
11 your first official board meeting as director. And
12 this is Kathy Wittum. Most of you, now, have learned
13 who Kathy is. And so that was my mistake. I should
14 have introduced you. Briefly, Kathy's background was
15 with the Attorney General's office. So I think she
16 has had a lot of knowledge or dealings with issues
17 such as this, when you're talking about laws and
18 regulations. I'm going to speak on your behalf a
19 little bit, but Kathy being new to the office, I
20 think, is probably trying to tread a little carefully
21 on any of -- any approvals or disapprovals wanting to
22 make sure that she brings them to us because she's
23 learning the job, as well. It's kind of an on-the-
24 job training thing when you're having to learn about
25 the law book and the rule book and especially a rule

1 book that this board has spent the last two years
2 kind of updating and changing bringing it into
3 compliance, cleaning up. Because there have been a
4 lot of things through the years that have been added
5 to this rule book, officially or unofficially. And
6 this happens to be an issue, I think that was done
7 unofficially. And it may have been official that it
8 was a board meeting and was done, but it was really
9 not, according to Arnie there's really no law that
10 talks about extracurricular. There's nothing in the
11 rule book that deals with it. It just kind of was a
12 policy that was created by this board in '94 and
13 implemented. So what I think we're trying to do here
14 is clean up our rule book, get into compliance with
15 everything, and this just happened to be one of the
16 areas that became a hot topic. So understanding that
17 there's really no law to this and there is no rule to
18 this, we really don't have the right to even give
19 extracurricular activity. If we do, then we are
20 breaking our own law. Am I right about that, Arnie?

21 MR. JOCHUMS: Well, the problem is that the
22 statute says that you have hours towards a degree in
23 school, if I remember right. The other issue is
24 extracurricular usually means, it sounds like
25 football or band. You don't get extra hours for

1 going to those things in terms of traditional use of
2 the English language. That means it's outside the
3 curriculum. But I think that's still a policy call
4 for this board and if you see educational value
5 that's something you have to weigh. But the first in
6 -- notion is that how can you count it if it's
7 extracurricular. That's like saying "yes" is "no".

8 MR. KEENE: Then are you saying that we can say
9 they can do extracurricular, we just -- legally, we
10 can't give them hours to it?

11 MR. JOCHUMS: Well, that was my interpretation.

12 MR. KEENE: Okay. We're not saying -- I don't
13 believe that the board is saying that we don't want
14 you to go to hair shows and that they're not
15 beneficial and rewarding in a lot of ways. What
16 we're saying is, by all means do everything you can
17 to make yourself the best that you can be. But to
18 expect hours for it or expect to this board to give
19 you hours for it is going beyond. So then I think
20 you also get into some legal aspects of liability.
21 Of if we condone it or add it to it then I think
22 we're taking on some liability there that needs to be
23 considered. And you as school owners and
24 instructors, if you're taking your students to
25 things, they you're also taking on that liability.

1 So that may be something that you will want to
2 consider or talk to your attorneys about. But that's
3 I think pretty much the gist of it, summing it all up
4 as to why the board came to this decision. And if
5 any of the other board members have anything they
6 want to add or I can open this back up to the people
7 that are on my list here.

8 MS. WEST: I would like to know what the other
9 states, our neighboring states and of course, the
10 larger states do according to the shows that they
11 have.

12 MR. KEENE: I don't think I understand. What
13 their laws are --

14 MS. WEST: Well, if they give --

15 MR. KEENE: -- what their policies are?

16 MS. WEST: -- what their policies are. If they
17 give hours to students, say Texas, Oklahoma,
18 California. Could we table this and see what the
19 other -- what our contemporaries do along this line,
20 because I don't want to deny our students something
21 that the other states are providing.

22 MR. KEENE: Well, my first response to that is
23 yes, we can look at other states but other state's
24 laws may be written differently than ours. So even
25 though they may do it, their law may allow it. Our

1 law doesn't allow it.

2 MS. WEST: I'm sorry. I didn't understand that.

3 MR. KEENE: Another state's laws --

4 MS. WEST: No, I mean --

5 MR. KEENE: -- may allow extracurricular
6 activities.

7 MS. WEST: -- I didn't understand that our laws
8 did not allow it.

9 MR. KEENE: Yeah, yeah.

10 MS. WEST: I see.

11 MR. KEENE: Now, so far it's just been a policy
12 of this board and our office to allow extracurricular
13 and give them hours for that. My understanding is
14 that we really have not had the authority to do that.
15 We can allow them to do extracurricular but we can't
16 really give hours for it. But what a student does
17 extracurricular is really none of our business.
18 Anything else from the board?

19 (No response.)

20 MR. KEENE: Then I'll open it back up to the --
21 Ms. Tracy Akard. And Tracy, could you come forward
22 so that it will be on the mic better?

23 MS. AKARD: Sure. Well, it would be absolutely
24 beating a dead horse because it sounds to me like
25 that the policy is null and void and that we are no

1 longer going to observe the policy where students are
2 going to be allowed to get extra hours; is that
3 correct?

4 MR. KEENE: That's my understanding of it. That
5 we're not saying that they can't go --

6 MS. AKARD: Yes, but they're --

7 MR. KEENE: -- that they can't attend things.

8 MS. AKARD: -- they're not going to be able to
9 get extra hours?

10 MR. KEENE: Right.

11 MS. AKARD: What about in the -- in our rules
12 and regs where the students were allowed to get
13 sixteen hours when they could go to the -- oh, it was
14 the --

15 MR. KEENE: Arkansas Hairdresser's Association?

16 MS. AKARD: Yes. What about when that was
17 available for them and that's no longer available?
18 What about that? That was in our rules and regs.

19 MS. WITTUM: That's what is being stricken from
20 the rules.

21 MR. KEENE: Yeah, but that's -- we're striking
22 that because what we're saying is we're trying to
23 clean up the rule book to make it work with our law
24 book. And since it's really not in the law book that
25 we can do that, then it should never have been in the

1 rule book to begin with.

2 MS. AKARD: Well, then I don't have anything to
3 speak, because ours was to, you know, petition on the
4 same thing was for the students to be able to get
5 hours for extracurricular activities. So I really
6 don't have anything to speak on.

7 MR. KEENE: Okay. Next was Karla Jones.

8 MS. JONES: I just wanted to say that the
9 students -- a lot of times when the students get
10 these extra -- go to these extracurricular -- get
11 these opportunities that sometimes they are during
12 school hours. And sometimes they go past, like over
13 the weekends and things like that. And they -- we
14 spend a lot of money for these students to go. And
15 eighty percent of our industry, eighty percent of the
16 people -- eighty percent of the money that's made in
17 our industry is made by twenty percent of the people.
18 And that twenty percent of the people that's making
19 this eighty percent of the money are the ones that
20 get this extracurricular knowledge. They go to these
21 shows and they go to workshops. And we give the
22 students the opportunities to go because we're
23 training them. And we train them the way that we
24 want them to be once they get out into the
25 cosmetology industry. And the only way they're going

1 to learn is to be able to do it while they're in
2 school and get these opportunities.

3 MR. KEENE: And I encourage that. I was one of
4 those people that wanted people to come to those
5 shows because I was the one on the stage giving, you
6 know, a color class or a perm class or a haircutting
7 workshop or whatever. I strongly encourage people to
8 go and students to go because I think it's, you know,
9 an important part of the industry. But those twenty
10 percent of the people that are making the eighty
11 percent of the money, they're doing that after
12 they've already gotten a license. They're not doing
13 -- they're not making that eighty percent of the
14 money while they're a student in school. They're
15 doing that as a licensed professional.

16 MS. JONES: Yes, but this behavior is learned
17 while they're in school.

18 MR. KEENE: Sure. Sure, that's why we encourage
19 that they go. Oh, I can't read -- Dawn. I can't
20 read my writing.

21 MS. CREEKMORE: Most of what I wanted to say was
22 very eloquently spoken by the young lady in the
23 second row here. I'd like a little clarification,
24 though. I can see that this is already a -- in 1994
25 this was already done and now we're just kind of

1 going back and agreeing to -- so, the clarification I
2 need is all we need is a law change and we could do
3 this?

4 MR. KEENE: Basically.

5 MR. JOCHUMS: A statute change.

6 MR. KEENE: And you're the one to do it.

7 (Laughter.)

8 MR. KEENE: I think that was all the people on
9 my list for that particular subject. Does anyone
10 else have anything else they want to add to it?

11 MS. TURMAN: Cliff, I had read this rules and
12 regulation I don't know how many times, but it
13 doesn't say anything in here about the hours for
14 extra activities. This says the school should
15 provide these hours. It doesn't say that they can go
16 to shows or anywhere else and get those hours. My
17 way -- like I said, I've read this many, many times.
18 It doesn't say, it says that the school is required
19 to give the students hours, not to get it outside of
20 school.

21 MR. KEENE: Right. And that's what Kathy and
22 the board is trying to do, is just trying to clean up
23 some things that were being done that weren't
24 supposed to be being done. Jane?

25 MS. POWELL: I'd just like to say that I know

1 that our director is working diligently to clean up
2 past innuendos or sort-of policies and sort-of-nots
3 and a history of things not being very clear. And by
4 creating this or working through the process of this
5 new rules and regs is going to do that for all of us.
6 Once we have what is actually in the law and defined
7 in the rule book then it makes it easy for any of us
8 to pick up the rule book and have all the answers
9 there, so that through the years when little things
10 get changed and not everybody happened to be there at
11 the congregation, they don't know what was changed
12 and why and was it legal or was it not? And I really
13 -- I just want to say I appreciate her experience and
14 expertise in this area and of finally cleaning this
15 up for us and for us all in this industry. It is a
16 change I've been passionate about for four years.
17 And I really appreciate that.

18 MS. TURMAN: I think we're very fortunate to
19 have our new director.

20 MS. WITTUM: Well, let me say that I don't
21 intend to ruffle feathers, but I know that I will
22 because I am determined to make this office not only
23 an efficient office but a respectable office. And
24 from the moment I came into this office in June, I've
25 had not one day where I have not heard someone say

1 that the office or the board is not treating someone
2 fairly or not doing things consistently. And that
3 gives me all the more reason to want to bring us to a
4 place where we can be consistent. We can abide by
5 the guidelines and we can do everything that's
6 necessary to ensure that the Cosmetology industry is
7 the very best here in Arkansas possible. And that's
8 going to start with the students and it's going to
9 filter out to the practitioners and the establishment
10 owners and the cosmetology school owners and
11 instructors. I know that everything in the office
12 can't be looked at at one time. This is just a hot
13 issue that kind of developed unexpectedly, for me. I
14 certainly wasn't expecting anything to come out in
15 full force like it did. But I know that as I have
16 time to review everything within the office that
17 there will be other occasions where we will be coming
18 together again, so that the board can take a look at
19 what the office has been doing and they can decide
20 for themselves if they want to continue doing it that
21 way or they don't. And I will do whatever the board
22 wishes me to do, but my first primary responsibility
23 will be to ask the questions and bring it to the
24 forefront so that it can be discussed.

25 MR. KEENE: Okay. Now let's move on to the --

1 our next issue was the prerequisite. And Ms.
2 Kennedy, you wanted to speak on that?

3 MS. KENNEDY: Yes. May I come up and sit here?

4 MR. KEENE: Yes, please.

5 MS. KENNEDY: Thank you for hearing me today.
6 I've been teaching in the vocational field for the
7 last fifteen years in the public high schools. We
8 have an excellent vocational program at Sylvan Hills
9 High School. And we are asking for some type of
10 waiver or law change to be allowed to accept our
11 tenth graders into our courses. And if you will
12 allow me, I'd like to explain to you why. And for
13 those that are not familiar, in the classification of
14 students in high school, in order to be a tenth
15 grader you must have five credits. For an eleventh
16 grader, they have eleven credits. And seventeen
17 credits for twelfth graders. Our students in the
18 high school setting are actively receiving these
19 credits simultaneously with taking the cosmetology
20 program. And they receive credit for cosmetology.
21 We have it divided into Cosmetology I and Cosmetology
22 II. In Cosmetology I, they can receive two credits
23 for a full year of the course. And in Cosmetology
24 II, they can receive up to three credits. The law
25 states that a student must be a tenth grader in order

1 to enroll in cosmetology. What happens a lot of
2 times in high school is we have what we call second
3 year tenth graders. And that means that a student
4 can start the year with as many as five and ten and a
5 half credits. They receive four credits per semester
6 or they can if they pass all their classes, which
7 would allow a student to become an eleventh grader at
8 the end of the first semester. If we do not allow
9 these students to go ahead and start at the beginning
10 of the year we are losing students. The number of
11 students that we have in enrollment affect our
12 program tremendously. Without these students or
13 without a certain number of students it's a
14 possibility that puts the program at risk at even
15 existing. It affects also the number of classes that
16 we have during a day's time and it affects the number
17 of teachers the district is allowed to employ for
18 cosmetology. The Department of Education allows us
19 to take tenth, eleventh, and twelfth graders into our
20 programs. Presently, I have sixteen students that
21 are enrolled in cosmetology and we are four weeks
22 into this -- in to the school year. If I pull the
23 tenth graders from my program at this time, we would
24 be affecting sixteen students, sixteen of my best
25 students. It is our job, I feel, as educators to get

1 our students interested in cosmetology, motivated,
2 and working in the industry so that they go on and
3 pursue their license and we build cosmetology. We
4 build our programs with the people. We are in the
5 business of educating students and we need to be
6 available to as many students as possible. We feed a
7 lot of students into the private schools because they
8 are not -- a lot of them. Due to having to take
9 other courses, graduation requirements, it gets
10 harder and harder as they go from the tenth grade to
11 the twelfth grade to get everything into their
12 schedule so that they can get all their credits to
13 graduate. If you look at our numbers, more students
14 in the tenth grade will sign up for cosmetology than
15 in the twelfth grade because they have more room in
16 their schedule to take it. And the numbers go down
17 as their grade levels go up. I believe due to the
18 policies of the "No Child Left Behind" set down by
19 the president that it is imperative that we allow as
20 many students to take the cosmetology course and give
21 them the opportunities to be successful. You know as
22 well as I do that our curriculum builds students for
23 success in business industry, whether it's
24 cosmetology or anything else. And I personally would
25 like to see as many students be able to be exposed to

1 that curriculum as possible. Thank you.

2 MR. JOCHUMS: Are most of your, your call them
3 tenth grader students in this the second time through
4 the tenth grade?

5 MS. KENNEDY: A lot of them do. If they don't
6 get all their credits their first time through the
7 tenth grade they -- they are still -- see, what
8 happens with the Department of Education as far as
9 classification goes is they have to reach this
10 certain number before the status of whether they're
11 tenth, eleventh, and twelfth grader rolls over. Now
12 it's the Department of Education's policy or the
13 Pulaski County School District's policy, I should
14 say, that we do not roll over the status of a student
15 until the end of the year. So for instance, a
16 student -- I've got some copies of some transcripts
17 here with me that you can see. I have some students
18 that have ten and a half credits at the beginning of
19 the year. Well, they're only half a credit away from
20 being an eleventh grader and they will be an eleventh
21 grader at the end of the first semester. Now, as far
22 as our school records are concerned the status of
23 that student will not actually change until the
24 beginning of the next year when the numbers roll
25 over. And we have summer school. The students can

1 go and take classes in the summertime and get credit
2 for that, as well. And that all adds up. And then
3 by the time the beginning of the next school year,
4 that's when their status officially changes. But on
5 their transcripts their credits are there or they're
6 very close to getting them already before the status
7 is actually changed. Do you understand what I'm
8 saying?

9 MR. JOCHUMS: Well, what I was -- to make it
10 even simpler. Is this their third year of high
11 school?

12 MS. KENNEDY: Sometimes.

13 MR. JOCHUMS: See, because I can see reading the
14 statute to mean that you've gone to high school for
15 two years. And we wouldn't really care. It doesn't
16 say "junior" in there. It just says that you've gone
17 to high school for two years. It says "completed".
18 Now, I don't know what "completed" means. It means
19 you made it to June, right? Or does it mean that you
20 got all hours of work completed?

21 MS. TURMAN: To me it would mean you would have
22 all your hours.

23 MS. POWELL: Would it mean that you'd completed
24 the program up to the eleventh grade or would it be
25 the tenth grade?

1 MS. TURMAN: It's completed means it's completed
2 today.

3 MS. POWELL: It's requirements are completed is
4 what I would take it to say.

5 MR. KEENE: Let me ask this question.

6 MR. JOCHUMS: Does anyone know why they had that
7 rule? Does it have to do with age of the kids?

8 MS. POWELL: I would think age and education.

9 MR. JOCHUMS: Okay.

10 MR. KEENE: Because I went through the vo-tech
11 program, as well, and I'm sure it has changed a lot
12 through the years. Because it was a lot of years
13 ago.

14 MS. KENNEDY: It has changed. It has changed
15 considerably.

16 MR. KEENE: When I went I don't believe I was
17 completed the tenth grade and I had to get a letter
18 from the counselor that said that I have the
19 equivalency of. Now, does our regulations address
20 that? And if they do, wouldn't that be the answer to
21 this problem?

22 MS. KENNEDY: I would think so. There has to be
23 an answer to it somewhere. And I have to tell you
24 we've been taking tenth graders for years, a number
25 of years. We've been -- we've had a waiver. We've

1 had permission from the Department of Education and
2 the Cosmetology Director to allow these students into
3 our courses because of the fact that they are
4 actively receiving credit as they're taking
5 cosmetology and getting credit for cosmetology at the
6 same time, so.

7 MR. KEENE: Well then my question is to the
8 attorney. Is there anything in our law that prevents
9 taking somebody on the equivalency of. I realize it
10 says completed tenth grade, but is there --

11 MS. POWELL: I believe it says equivalency.

12 MR. KEENE: Well then I don't see what the
13 problem is.

14 MS. POWELL: It has to be either -- the way I
15 read it is it's equivalency.

16 MR. KEENE: And do we have requirements on who
17 we get the equivalency letter or documentation from?

18 MS. POWELL: You'd have to have it from the
19 school. The same place you would --

20 MR. KEENE: Who from the school, though? The
21 janitor or the secretary or --

22 MS. POWELL: The one that would issue grades.

23 MR. KEENE: Teacher?

24 MS. CAUDLE: May I answer that?

25 MR. KEENE: Sure.

1 MS. CAUDLE: It's wrote. It's somewhere in the
2 books, but it's tenth -- completed tenth grade
3 education or ten high school credits.

4 MR. KEENE: All right.

5 MS. CAUDLE: And there has to be a transcript
6 sent in with it showing that they have either
7 completed the tenth grade or have ten high school
8 credits.

9 MR. KEENE: Have you seen anything like that?

10 MS. WITTUM: Huh-uh. Was that in one of the
11 previous regulation books?

12 MS. CAUDLE: Uh-huh.

13 MS. WITTUM: But it's no longer in the
14 regulation now?

15 MR. KEENE: So that is a --

16 MS. WITTUM: So at some point it got changed?

17 MS. CAUDLE: Yes.

18 MR. KEENE: So that really doesn't qualify now
19 because it's been changed.

20 MS. CAUDLE: Because it was in the rules and
21 regs.

22 MR. JOCHUMS: They may have not used the same
23 number system anymore.

24 MR. KEENE: So what we have to deal with is the
25 way it's written right now.

1 MR. JOCHUMS: Right now -- and this is no
2 change. I just lost my spot. "Completed two years
3 of high school or its equivalent."

4 MR. KEENE: So does that take care of the
5 problem?

6 MS. WITTUM: Of the ones that are tenth graders
7 would be submitted from whoever you designate as
8 being the official person that verifies that they
9 have the equivalent of two years of high school.

10 MS. KENNEDY: That would be our registrar.
11 There's a registrar in each school that keeps up with
12 student transcripts, number of credits, student
13 status, classifications. And which brings us to
14 another issue --

15 MR. KEENE: Before you go to another issue --

16 MS. KENNEDY: Okay.

17 MR. KEENE: I want to find out what that lady
18 back here had to say.

19 MS. WARD: It did say that --

20 MR. KEENE: I need you to stand up and speak
21 louder.

22 MS. WARD: Okay.

23 MS. WITTUM: And identify yourself.

24 MS. KEENE: Yeah, tell us who you are.

25 MS. WARD: Okay. I'm Barbara Ward. Anyway, it

1 says two years of that has to be of English and they
2 have to be sixteen years old, okay? And if they have
3 two credits of English in the ten credits and they're
4 sixteen years old then they can go. So we haven't
5 had any problems with that.

6 MS. WITTUM: Is that under the Department of
7 Education requirements?

8 MS. WARD: No, that was in --

9 MS. WITTUM: But that's a previous regulation
10 that's no longer in existence, right?

11 MS. WARD: Yeah.

12 MR. KEENE: And that's the same one that you
13 were talking about.

14 MS. WARD: Yeah, they have the two years of
15 English, that they understand what they're reading.
16 That was one of the things, reasons they said they
17 had to complete tenth grade. Because they said if
18 they didn't have complete tenth grade English they
19 couldn't understand what they were trying to learn.
20 And that was one of the things. If they had
21 something in a different area --

22 MR. KEENE: Well, that apparently was changed.

23 MS. KENNEDY: And can I speak to that? We have
24 students that have IEP's, Individual Improvement
25 Plans; lower achievers; students that may not have

1 completed their second year of English, but there are
2 improvement plans in place and there are directive
3 studies, there are responsibility teachers. There
4 are people that work with these students and support
5 them and help them through their training. So
6 there's a lot more to it on our end as far as the
7 Department of Education and the school system is
8 concerned, more so than just either you have it or
9 you don't have it. Do you understand what I'm
10 saying?

11 MR. KEENE: Yeah.

12 MS. KENNEDY: We cannot -- this -- this goes
13 back to the "No Child Left Behind" set down by the
14 president. We have -- we are required to bring these
15 students up to proficiency, as far as their studies
16 are concerned. And cosmetology is one of the courses
17 among many hundreds of courses that we offer in high
18 school. And it is our job to make sure that these
19 students are educated. And if they are lagging
20 behind, if they are failing a course we have to get
21 them outside assistance -- within the school I mean,
22 to help them along, to help them with their studies
23 so that they can be successful and they can succeed.

24 **

25 MR. KEENE: What do we need to do here then?

1 MS. WITTUM: I have a question of Linda.

2 MS. KENNEDY: Yes, ma'am?

3 MS. WITTUM: Linda, the statement that you just
4 made, am I to understand that to mean that all tenth
5 graders that you have in your schools, you might not
6 be able to provide a letter of equivalency for?

7 MS. KENNEDY: No, ma'am. I -- no. No, ma'am.
8 We would be able to provide any documentation that
9 you would need to say that these students are
10 actively receiving their credits; that they are
11 enrolled or however many credits that they have --
12 whatever you need the letter to say, that
13 documentation can be provided to this board.

14 MS. TURMAN: I want to know what this would do
15 to someone that wasn't attending school. I mean if
16 we allowed them to go to vo-tech without completing
17 the tenth grade, how would this affect our schools if
18 they wanted to attend school?

19 MR. KEENE: They still have to follow this
20 requirement. If they hadn't -- if you're saying that
21 somebody didn't complete high school or the tenth
22 grade or whatever and they wanted to go to Jane's
23 school or Mitzie's school or whatever, would they be
24 able to go? Only thing is as long as they had
25 something to prove that they had a tenth grade

1 equivalency. Aren't there examinations out there
2 that deal with that through the Department of Ed or
3 something?

4 MS. MCKINNEY: Well, you're looking at two
5 different issues. You've got to remember that the
6 state addresses state law and you've got some
7 schools, I think what, 14, that are nationally
8 certified, so they deal with another set of rules.
9 But you can't apply those rules to non-accredited
10 schools, so. No, we could not admit one unless they
11 meet federal regulations. We have to go on --

12 MR. KEENE: But that's because you're an
13 accredited school?

14 MS. MCKINNEY: Right. Right.

15 MR. KEENE: But a non-accredited school --

16 MS. MCKINNEY: A non-accredited school, yes.
17 They could get a letter of --

18 MR. KEENE: Okay.

19 MS. MCKINNEY: -- verifying that they had the
20 equivalent of the tenth grade, then yeah.

21 MR. KEENE: And Tracy, you have a question?

22 MS. AKARD: You have to apply the same standards
23 to the public schools as you do to the private
24 schools.

25 MS. TRAYLOR: That's true.

1 MS. AKARD: You absolutely -- you cannot -- you
2 have to apply the same standards.

3 MR. KEENE: So what you're saying is opposite of
4 what Mitzie just said?

5 MS. AKARD: No. She was talking about an
6 accredited school and a non-accredited school. You
7 have to apply the same standard. If it says you have
8 to have completed the tenth grade then you have to
9 have completed the tenth grade, whatever that means
10 whether you're talking about credits or whatever, but
11 it has to be the same standard. You cannot allow the
12 public school to do something that the private school
13 cannot do.

14 MR. KEENE: I don't think that's what -- I don't
15 think that's what we were saying.

16 MS. AKARD: Yes, it is.

17 MS. TRAYLOR: That's true.

18 MS. TURMAN: Yeah, it is.

19 MR. KEENE: It is?

20 MS. AKARD: It sure is.

21 MR. KEENE: You're saying -- now, wait a minute.
22 You're saying the rule here says completed the tenth
23 grade or equivalent. It's not saying you have to
24 complete the tenth grade.

25 MS. AKARD: Or an equivalency, but when you're

1 talking about no kid left behind, if it is that they
2 cannot be pursuing the tenth grade and then be
3 enrolled in cosmetology. That is not the same as
4 having completed the credit or whatever.

5 MS. TURMAN: That's true.

6 MS. TRAYLOR: Right.

7 MS. AKARD: When it -- when their counselor says
8 that they have completed or have equivalent to the
9 tenth grade then that has to be the same thing that
10 would enter them into a private school. It cannot be
11 -- it has to be the same thing.

12 MS. TRAYLOR: It's not fair.

13 MS. TURMAN: It's not.

14 MS. AKARD: It cannot be something different.

15 MR. KEENE: I don't see -- I still don't see
16 where the problem is.

17 MR. JOCHUMS: It doesn't -- it doesn't assume.

18 MR. KEENE: It says what equivalent is.

19 MS. KENNEDY: Cliff, if I may --

20 (Multiple speakers attempt to speak.)

21 MR. KEENE: She had the --

22 MS. MCKINNEY: If you had a tenth grade student,
23 they can get a letter that states that they have the
24 equivalent credits of a tenth grader, even though
25 they are still a tenth grader. Then they would also

1 have to -- well, in your case then you've met the
2 state regulations. Now you're going to have to go
3 meet the federal ones, which means a letter from
4 their counselor --

5 MS. AKARD: If I were to send that in to state
6 board, though, what they are going to accept -- if I
7 were to send this in to state board right now, what
8 they are going to want -- what I understand is what
9 state board would want if I have a tenth grader, is
10 that they're going to want a transcript that they
11 have completed the tenth grade or they're going to
12 want a --

13 MS. MCKINNEY: No, that's not what they said --
14 or a letter.

15 (Multiple speakers attempting to speak.)

16 MS. WITTUM: Or a letter showing that they --
17 that student has the equivalency of.

18 MS. AKARD: Okay. Then that's exactly what --
19 what the private -- I mean what the public school is
20 going to have to produce, too. Exactly. No less.
21 Nothing that says that they are pursuing it, it has
22 to say that it has been completed --

23 MS. POWELL: Or it's equivalency.

24 MS. AKARD: Or it's equivalency. But nothing
25 less.

1 MS. KENNEDY: Sir?

2 MR. KEENE: Exactly.

3 MS. KENNEDY: Am I understanding that being
4 actively in the tenth grade or pursuing those credits
5 is the same thing as having the equivalency?

6 MS. AKARD: No, it's not.

7 BOARD MEMBERS: No.

8 MS. AKARD: No, it is not.

9 MR. KEENE: No.

10 MS. KENNEDY: Okay. So --

11 MR. KEENE: That part of -- we will have to have
12 documentation -- if they're in the eleventh grade and
13 you can get documentation saying that they have the
14 equivalency of a tenth -- of a completed tenth grade
15 education, then yes. Then we'll take them.

16 MS. KENNEDY: Okay. So it's going to have to be
17 more than a letter. You're saying that they're going
18 to have to have some kind of exam or something that
19 says that --

20 MS. POWELL: No, a letter from the school.

21 MR. KEENE: I don't know what the guidelines of
22 the board are going to be yet.

23 MS. KENNEDY: A letter? Okay.

24 MR. KEENE: Right now. Right now what we're
25 saying is they don't have to have completed if you

1 can get something that shows the equivalency of a
2 completed tenth grade education. Now, what that
3 might be, the board may have to talk about and
4 decide. Jane?

5 MS. POWELL: I feel that -- and I mean, I may be
6 wrong. But I'm under the impression that academics
7 as far as "No Child Left Behind" are the educational
8 principles of reading, writing, arithmetic and that
9 kind of thing. I don't think that that is an issue
10 of an elective as in workshop and beauty shop. I
11 feel that at this fragile time of their age they need
12 this academics and I feel that that -- I'm in an
13 accredited school and I supersede the state law. I
14 have to have a twelfth grade education. You know, I
15 feel that I want my students to have completed that
16 education prior to coming to me to get a career, they
17 got their education and now I'm going to train them
18 in a job. And I think that to expect them to have
19 just completed the tenth grade or it's equivalency of
20 completing it is a minimal, most minimal standard to
21 ask.

22 MS. AKARD: Amen.

23 MR. KEENE: Tracy, was that your -- was that
24 what you were getting at? Is are you an accredited
25 school and have to have a twelfth grade equivalent?

1 MS. AKARD: That's -- that's really -- I mean,
2 yes, I am. But it's that we have to apply the same
3 standards in that if it says completed the tenth
4 grade then that's the way it needs to be. And I want
5 us to -- I still think that we're fighting the "nit-
6 wits" attitude. Still, the public stills views us as
7 not always being professional. And so, the more
8 educated we are, the more we can read, write, and do
9 math, the more educated our students are, the better
10 off we're going to be. And if that says that we need
11 to have completed the tenth, I think the more
12 educated that our cosmetologists are the better off
13 we're going to be. And I don't think we should lower
14 our standards -- at all.

15 MR. KEENE: So my question to you was -- was are
16 you saying you -- you would require the twelfth
17 education versus the tenth?

18 MS. AKARD: No, I'm not saying that at all. I
19 think we should follow the letter of the law that
20 says they should have completed the tenth grade --

21 MR. KEENE: Or it's equivalent.

22 MS. AKARD: -- yes. And the equivalency should
23 be the transcript or the GED. Or the letter from the
24 counselor.

25 MS. KENNEDY: Mr. Keene?

1 MR. KEENE: Dawn?

2 MS. CREEKMORE: Can I ask a question? And this
3 doesn't affect my school at all. I am a federally
4 accredited school, so my school supersedes the state
5 law. To have completed the tenth grade or it's
6 equivalent; is that school district standards or
7 state standards? Because I know that different
8 school districts have different standards.

9 MR. KEENE: I don't know.

10 MS. POWELL: It would be your state standards.

11 MS. CREEKMORE: What is the state standards of
12 completed tenth grade, do we know?

13 MS. KENNEDY: They have to have eleven credits
14 to be considered an eleventh grader. Five credits to
15 be considered a tenth grader.

16 MS. AKARD: Then that's what we need to follow.

17 MS. CREEKMORE: Is that the school district or
18 is that a state standard?

19 MS. KENNEDY: That's the school district.

20 MS. CREEKMORE: That's what I'm referring to.

21 Each -- I know each school district has different
22 standards. You can graduate one school with so many
23 credits and graduate another school with several less
24 credits. I just don't understand what we'd base it
25 on.

1 MS. POWELL: The state would supersede. The
2 state supersedes.

3 BOARD MEMBERS: What does the state say?

4 MR. KEENE: That's a good question. You know,
5 we've been at this almost an hour now, so why don't
6 we just take a short recess and Kathy can make a
7 phone call and try to find out the answer to that
8 question for us. We'll come back at say, a quarter
9 'til ten. Was there any more that you wanted to add
10 to your discussion before we take a break?

11 MS. KENNEDY: Uhm -- well, I was just going to
12 say that -- remind the board that these kids are
13 actively receiving their credits and that they, a lot
14 of them are second year tenth graders. And I believe
15 that it would be in the best interest of the students
16 if we stand on the equivalency part of the law and
17 make sure that these students have the equivalency.
18 But if they do, then to allow them to enroll because
19 they will be -- have completed their tenth grade or
20 even eleventh grade by the end of the school year.
21 So it's not fair to not let them start in September
22 when they're going to have it before the school
23 year's even over.

24 MS. WITTUM: Well, according to Frank Wimer at
25 the Department of Education, currently ten and a half

1 units are required to be the equivalent of the two
2 years completed high school. That is going to eleven
3 units. They're in the process of changing it. He
4 also directed me to their website where it talks
5 about the specific courses that those ten and half
6 and eventually eleven units would have to be
7 consisted of. He said if the board were wanting to
8 implement some type of policy or standard to where we
9 looked at these particular issues, then we could
10 either do it by lumping the -- all of the courses
11 together and saying that we have to have the
12 verification that it's ten and a half or eleven units
13 or we could say they have to provide the
14 documentation where all of these courses have been
15 completed.

16 MR. KEENE: So if we -- if we go according to
17 this ten and half that they're doing right at the
18 present, then a lot of those tenth grade students --
19 that if they don't have the ten and a half credits
20 then we wouldn't be able to allow them.

21 MS. WITTUM: Right. But he did tell me that it
22 is possible for a student to have ten and half units
23 and still be in the tenth grade. It's -- some of the
24 students that are in the vo-techs right now probably
25 would still be eligible for the course if we were

1 going to go by this standard. It wouldn't wipe all
2 of them out but it probably would exclude some, I
3 would think.

4 MR. KEENE: Uhm -- is this requirement --

5 MS. KENNEDY: Yes, it would definitely.

6 MR. KEENE: -- is it for enrollment into the
7 school or is it do they have to have this requirement
8 to take the examination?

9 MR. DOWNEY: Enrollment.

10 MS. WITTUM: It's for enrollment. I believe
11 it's the statute does talk about the educational
12 levels to come in for examination where like
13 cosmetology the age is not less than sixteen and the
14 education is two years of high school in public
15 schools or it's equivalent. And all of them have
16 different requirements but -- but this would be --
17 this is exactly as it in the rule.

18 MR. KEENE: So it still says at time of
19 examination prerequisite to sit for the examination.
20 So to me we're still where we were. They don't have
21 to have completed the tenth grade to take the
22 examination. They have to have the equivalency.

23 MS. WITTUM: Right.

24 MR. JOCHUMS: Wasn't there another statute that
25 says you could get into school in our --

1 BOARD MEMBERS: Uh-huh, yes.

2 MR. JOCHUMS: It's a different section. I don't
3 know what it says. Oh. The issue is in 304, there's
4 two things. It says shall admit or do examination.
5 Well, number one, this is hard to read. I don't know
6 what it means but what it literally says is, "the
7 Board shall admit to examination and for a
8 certificate of registration and a license." Somebody
9 not less than sixteen. My understanding is that your
10 certificate of registration is what you get to go to
11 school, but I might be wrong.

12 MS. POWELL: Or it could be a registration for
13 the exam.

14 MS. MCKINNEY: Yeah.

15 MS. POWELL: If it's in the -- area of the exam.
16 Okay?

17 MS. WITTUM: I took that to be simply dealing
18 with the examination. The registration statute back
19 here doesn't say anything other than that the student
20 shall be registered with the board before accredited
21 hours can be obtained. That's in 4-15. But it
22 doesn't give any specific --

23 MR. KEENE: Registration requirements.

24 MS. WITTUM: -- requirements. That's outlined
25 in the regulation and in the rule itself.

1 MR. JOCHUMS: Well, that doesn't mean the
2 current rule is tighter than the statute.

3 MR. KEENE: Where? So what are we saying?
4 Let's sum it up here. What are we saying to these
5 people. What are the requirements going to be? With
6 the way it reads now?

7 MS. TURMAN: It's to complete or equivalent to
8 tenth grade.

9 MR. KEENE: And that's for registration?

10 MS. TURMAN: Uh-huh.

11 MS. TRAYLOR: Yes.

12 MS. TURMAN: Yes.

13 MR. KEENE: So we're back where we started.

14 MR. JOCHUMS: Well, the rule that we had said
15 exactly what we're talking about this morning so
16 we're not changing anything. It's a, I think, more
17 of a question of how we're enforcing what previously
18 existing -- or continuously existing rule over many
19 years.

20 MS. WITTUM: But currently the enrollments that
21 I've seen have not come with any kind of letters
22 attached to them. Have you -- do you know, Linda,
23 you specifically have any of your students enrollment
24 forms ever included a letter that explained the
25 equivalency level?

1 MS. KENNEDY: No, ma'am. We have been allowed
2 in the past to register our students with a cover
3 letter from the registrar of the school, because she
4 keeps all the secured documents -- the transcripts,
5 birth certificates, social security cards. We don't
6 ask the students for those documents. One of the
7 reasons is because they are in high school and the
8 parents do not like to release those documents for
9 the students to carry them to school. They get lost.
10 Things happen with identity theft and everything and
11 people are nervous about that. We get a cover letter
12 from the registrar that says that those documents
13 exist and that they are correct. And we attach that
14 to our registration forms and send those in.

15 MS. WITTUM: And note, that's another issue --

16 MS. KENNEDY: That was the other issue, --

17 MS. WITTUM: -- that I'd like for the board to
18 address.

19 MS. KENNEDY: -- yes, ma'am. Yes.

20 MS. WITTUM: It appears that this school is the
21 only one that's been allowed to do that. All of the
22 other schools are providing the copies of the birth
23 certificates and the necessary documentation with the
24 enrollment forms. I had told Linda she had to
25 provide the copies. Because she has been allowed to

1 do that in the past, I don't know if that was a
2 previous director decision or if that was the board's
3 decision. So --

4 MS. TRAYLOR: I don't remember ever --

5 MS. WITTUM: -- y'all knew?

6 MS. KENNEDY: I don't have a problem with that.
7 The only thing that it -- the only way it affects us
8 is that it takes us longer to get the students
9 enrolled and to get them clocking hours. Sometimes
10 we're looking at getting into September, October of
11 the school year before --

12 MR. KEENE: But you just said the registrar
13 would already have all that in place.

14 MS. KENNEDY: If I can get a letter from the
15 registrar I can do it very fast and get the students
16 clocking in. If I'm waiting on documentation from
17 the students that when it drags things up and it
18 takes longer to do.

19 MR. KEENE: Well, they --

20 MS. WITTUM: Can you not get copies of those
21 documents from the registrar?

22 MS. KENNEDY: I can. She won't be too happy
23 about, but I can. It's somebody's job. Somebody has
24 to stop and take time to do that. We can work with
25 that. I, you know, I'm not -- I don't have a problem

1 with that.

2 MS. WITTUM: Then I guess my concern is I think
3 it's going to be easier for our staff to do things
4 consistently one way.

5 MR. KEENE: Consistently.

6 MS. KENNEDY: I understand.

7 MS. WITTUM: And if all of the schools are
8 required to provide that documentation it's better
9 for all schools to do it.

10 MS. KENNEDY: I don't have a problem with
11 complying with that at all.

12 MR. KEENE: That's solved then.

13 MS. KENNEDY: That's solved.

14 MS. TRAYLOR: That was what I -- I think that
15 they ought to have to meet the same standards that
16 our private schools do. That's the bottom line.

17 MR. KEENE: Okay. What was the -- what did we
18 determine on the other. Did we -- the prerequisites?

19 MS. KENNEDY: We didn't. The issue of the
20 prerequisites -- uhm -- they're saying that they're --
21 -- that we should comply the same. I feel like there
22 is a difference between the vocational training and
23 the private schools due to the fact that these kids
24 are in high school and they are actively receiving
25 their credits. They are getting credit for

1 cosmetology by the school at the same time that they
2 are enrolling in the course. I can see where you
3 would -- might not want to change that for the
4 private schools but I believe it would be in the best
5 interest of the students, the cosmetology program,
6 and the industry if we allow these students in high
7 school to go ahead and start to enroll as soon as
8 they are able to take the elective and get them
9 started in the industry. This feeds our kids into
10 the eleventh and twelfth grade Cosmetology II class,
11 which gives us more completers. It also gives us
12 more students that are being fed into the private
13 schools. The private schools love to get our
14 students because they've had so much education. We
15 do a lot of theory with our kids, a lot of theory.
16 They are highly educated by the time they leave us
17 and they have finished high school and go into the
18 private sector.

19 MR. KEENE: Well, I think we just really need to
20 know what the board wants -- how the board wants our
21 director to interpret the regulation. Is that right?

22 MS. TURMAN: I believe we should state and keep
23 the facts up there -- I mean what we have always
24 practiced, completed tenth grade studies.

25 MS. TRAYLOR: I second that.

1 MS. TURMAN: Regardless.

2 MS. WITTUM: Completed tenth grade or its
3 equivalency as --

4 MS. TURMAN: Equivalent.

5 MS. WITTUM: -- as the regulation.

6 MS. TURMAN: Absolutely. Regardless of if it's
7 a private school or a vo-tech school.

8 MR. KEENE: As long as that school can present
9 the documentation for that student.

10 MS. TURMAN: That's correct.

11 MR. KEENE: Is that a motion?

12 MS. TURMAN: Yes, it is.

13 MS. TRAYLOR: And I second it.

14 MR. KEENE: Okay. We have a motion and a
15 second. Any more discussion on that one? Nick?

16 MR. DOWNEY: I'd like to say I don't think we
17 should lower our standards any. If the Department of
18 Education or the United States Department of
19 Education requires an accredited school to have
20 students with a twelfth grade education they have
21 done the research on it to find out that someone with
22 less education does not have the knowledge to be a
23 professional in this field. They require accredited
24 schools to have it. We say tenth grade. I don't
25 think it should go any lower than that. In fact, my

1 personal feelings is that it should be increased.

2 MS. TURMAN: I'd like to say this. Where is it
3 going to stop if we keep lowering our standards?
4 Where is it going to stop?

5 MR. DOWNEY: We'd be --

6 MS. TURMAN: And are we going to --

7 MR. DOWNEY: -- training in them out of the
8 elementary school.

9 MS. TURMAN: That's right.

10 MR. DOWNEY: That's what it would lead to.

11 MS. TURMAN: And this is, you know, I think the
12 students would be -- I mean I'm sure that it's nice
13 that they have the -- that they can take cosmetology,
14 but I think perhaps the kids may be needing to learn
15 reading and writing also.

16 MR. KEENE: Jan?

17 MS. POWELL: Do I understand that the motion is
18 to -- this tenth grade, completed the tenth grade
19 education or its equivalency. Now, did we define as
20 to which standard? Whether that was a state standard
21 or I know you had mentioned --

22 MR. DOWNEY: It is.

23 MS. POWELL: I know you had mentioned the
24 different units.

25 MS. WITTUM: What -- it's all state standard.

1 We can either require a letter to be submitted saying
2 the student has completed ten and a half or eleven --
3 you may want to go ahead and do eleven since that's
4 what they're moving to -- units or do you want to
5 identify these particular courses that they have to
6 have completed? The simplest thing, in my opinion,
7 would be the unit, number of units instead going
8 through the courses.

9 MS. TURMAN: Yeah, we need to amend that then.

10 MS. POWELL: You'll need to amend the motion to
11 the board.

12 MS. TURMAN: I make a motion that we amend it to
13 the units.

14 MS. TRAYLOR: I second that.

15 MR. JOCHUMS: And then by that --

16 MR. KEENE: So then you're discarding the
17 equivalency and going to go with the units?

18 MS. MCKINNEY: No, she never said that.

19 BOARD MEMBERS: No.

20 MS. POWELL: No, it's both.

21 MR. JOCHUMS: That's what -- how they're going
22 to define equivalency.

23 MR. KEENE: Okay.

24 MS. WITTUM: So for any -- any of the students
25 who have not completed the tenth grade, the

1 enrollment form should be accompanied by a letter
2 from a school counselor that says this student has
3 completed eleven units of education.

4 MS. GORDON: That's to enroll.

5 MS. WITTUM: That's to enroll.

6 MS. KENNEDY: I have a question.

7 MR. JOCHUMS: So you're going to amend this to
8 after equivalency to say, "its equivalence, which
9 means --?"

10 MS. KENNEDY: It's already in there.

11 MS. POWELL: No.

12 MR. JOCHUMS: It's not in there.

13 MS. POWELL: If we -- if we leave the motion as
14 it is, then the equivalency would actually be all
15 changing, ever-changing depending on the state's
16 requirements at that time. So maybe if we don't
17 amend our motion and let the state be the guideline -
18 - that way the director knows what the state
19 requirement is.

20 MS. TURMAN: That would be -- that would be
21 better.

22 MS. POWELL: I think so.

23 BOARD MEMBER: Uh-huh.

24 MR. KEENE: Veda and Pat, are you going to
25 rescind your amendment.

1 MS. TURMAN: Let's rescind it and let's do
2 director -- stick with the original of leave it up to
3 the director.

4 MR. KEENE: Veda?

5 MS. TRAYLOR: I'll second that. I took it in
6 mind, but I'll second letting it stay like it is.

7 MR. KEENE: Okay. The original motion --

8 MS. TRAYLOR: Discretion of the director.

9 MS. TURMAN: Yes.

10 MS. GRAY: Repeat just the motion again.

11 MS. WITTUM: Let's make sure we've got this all
12 right. My understanding is that it's going to be
13 they've completed two years of high school or its
14 equivalency -- or it's equivalency is going to be
15 based on the state standard, which currently is ten
16 and a half units and moving to eleven units.

17 MS. TURMAN: That's correct.

18 MS. WITTUM: But in the future if it changed to
19 fifteen units, it would be that fifteen that would be
20 required.

21 MS. TURMAN: Yes.

22 MS. TRAYLOR: You would have the authority to do
23 that.

24 MS. WITTUM: So do you think we need to change
25 anything on that?

1 MR. JOCHUMS: I think you'd want to change or
2 its equivalency based on the Department of Education
3 standards.

4 MS. GRAY: Okay.

5 MR. KEENE: Do you still want her to repeat that
6 motion? I think as long as Kathy's got it. Any more
7 discussion on that original motion?

8 (Chorus of laughter.)

9 MS. TRAYLOR: Whatever that was.

10 MR. KEENE: All in favor?

11 (Board members vote by show of hands.)

12 MR. KEENE: Unanimous. Cool, we're getting
13 somewhere. All right. Next on our list is -- and I
14 don't know these women's names of the ADA?

15 MR. JOCHUMS: The gentleman back on the left.

16 MR. KEENE: What's his attorney's --

17 MR. JOCHUMS: No, the other guy doesn't want to
18 speak.

19 MR. KEENE: Oh. Let me know who did that then?

20 MR. JOCHUMS: Well, this gentlemen stood up and
21 said he wanted to talk about that earlier.

22 MR. KEENE: Oh, you're talking about Mr. Dwight

23 --

24 MR. PIPES: Mike.

25 MR. KEENE: You wanted clarification on the

1 diseases?

2 MR. PIPES: Yes. Of course that's one issue
3 you're going to address today is on the infectious
4 disease. Of course I know according to your
5 regulation that it states that no school will allow a
6 practitioner to knowingly work on anyone who has a
7 communicable disease or vice-versa or the client
8 could not have. Previously, I had talked to other
9 directors and asked their interpretation as to the
10 extent that the board enforces this regulation or
11 whatever. And basically what I was told is that the
12 regulation is there, but we really don't enforce it -
13 - to an extent. And the reason I bring this up is
14 because we're in a unique situation in working in the
15 Department of Corrections where we -- you know, we're
16 in a situation where we can come in contact, you
17 know, numerous clients that may have this type
18 disease or these diseases. And of course, what we do
19 is when we have a prospective student that's gone
20 into the program we submit their names to the medical
21 department and based on the board regulation they
22 will screen these individuals and determine whether
23 or not that they have a communicable disease. We're
24 not told what it is if it is present. They just say
25 it's "yes, they are eligible according to board

1 regulations" or "they're not eligible according to
2 the board regulations". I guess it's worked pretty
3 good, but I guess I'm wondering if it's ever
4 challenged that we would not allow a student to enter
5 because it has been determined that they have a
6 communicable disease, does this board regulation
7 carry any kind of weight or is it just there is, I
8 guess, my question. And we did have a case one time
9 where it was questioned.

10 MR. JOCHUMS: I don't -- I'm not sure I follow
11 your question. The intent of the current regulation
12 --

13 MR. PIPES: I guess what is the intention of
14 that regulation?

15 MR. JOCHUMS: -- was to clarify that HIV --
16 there was a challenge. A school got in trouble and
17 they got sued last year from basically based on our
18 old wording. And to clear things up we wanted to
19 make it absolutely clear that infectious or
20 communicable does not mean HIV.

21 MR. PIPES: Okay. But there are other types of
22 diseases that are communicable.

23 MR. JOCHUMS: Yes, that's true and those are
24 still --

25 MR. PIPES: So if it's determined that they do

1 have a communicable disease --

2 MR. JOCHUMS: Well, I don't think it's that
3 simple. Under the ADA, you've got to figure out if
4 it's a communicable disease which you have to do a
5 job analysis. Are they likely to exchange bodily
6 fluids. To me it's more complicated than that. All
7 this says is one of them that it's not. So you could
8 have some other communicable diseases. If some cases
9 they'd always be exempt. But that's something that
10 the school is going to have to make a call on because
11 given the federal law now, you just can't rely on the
12 records -- you have to look at each case and make
13 sure that when in doubt you probably can't exclude
14 them. But if your medics can provide the case.

15 MR. PIPES: I say we -- yeah, I'd like to say we
16 -- you know, we submit the names to the medical
17 department and of course they're the ones that make
18 the determination --

19 MR. JOCHUMS: Right.

20 MR. PIPES: -- of yea or nay, so --

21 MR. JOCHUMS: Well, you just have to rely on
22 their call.

23 MR. PIPES: I guess what we're saying -- do we
24 even need to be concerned with whether or not they do
25 have a communicable disease? I mean is that

1 something that we need? My understanding was from,
2 there again, from previous it was --

3 MR. JOCHUMS: I think you do.

4 MR. PIPES: -- a "don't ask, don't tell" type of
5 situation. You know, if you don't know then don't
6 ask.

7 MR. JOCHUMS: Of course, if it's communicable --
8 if somebody's got Anthrax or something, you don't
9 really want them in your school.

10 MR. PIPES: True.

11 MR. JOCHUMS: Because you don't want to die
12 yourself, let alone other people. I'm not sure if
13 that's communicable, but --

14 MR. PIPES: I know you can't ask them if they do
15 have something -- I guess my question was if the
16 board --

17 MR. JOCHUMS: Are you opposed to the regulation,
18 I guess, is what we need to know.

19 MR. PIPES: -- or is it just there for whatever
20 reason. Is it an enforceable rule or -- do we need
21 to start doing this?

22 MR. JOCHUMS: I don't think it was ever enforced
23 in the past, historically, that I'm aware of, but I
24 don't know. It's more of a -- I think a cover for
25 the schools.

1 MS. POWELL: Actually I think it started out --

2 MR. PIPES: Is it more for our protection?

3 MS. POWELL: -- with TB. It was an
4 environmental issue with just being exposed to it.
5 It was long before HIV. It was during TB.

6 MR. PIPES: Is it an outdated rule now or is it
7 one that's still --

8 MR. JOCHUMS: No.

9 MR. PIPES: -- applicable or --?

10 MR. JOCHUMS: Well, there still is TB and there
11 still is --

12 MS. MCKINNEY: There's a lot of things that have
13 come and gone.

14 MR. JOCHUMS: -- and we've got ever-changing
15 nation with a whole lot of folks coming from other
16 parts of the world with diseases that we don't have
17 anymore.

18 MR. PIPES: Basically, what you're saying is
19 it's more the responsibility of the school as to how
20 far they won't to pursue this particular issue within
21 their programs?

22 MR. JOCHUMS: Well, actually --

23 MR. POWELL: It's defined as school or school
24 owner.

25 MR. JOCHUMS: Right.

1 MR. POWELL: And I think --

2 MR. JOCHUMS: Well, I think if we had a case
3 where somebody that had a truly communicable disease
4 and they were working on clients that we'd write them
5 up for health and safety, especially if they got
6 somebody sick. We might revoke their license.

7 MR. KEENE: Well, but I think it would go to --

8 MR. JOCHUMS: I think that's pretty common.

9 MR. KEENE: -- a different one of our
10 regulations and that would be on a blood spill.

11 MR. JOCHUMS: Right.

12 MR. KEENE: If whether or not they were treating
13 themselves -- I mean, I've cut myself. You know, and
14 the first thing you do is you get away from the
15 customer and you treat the problem before you go
16 back. And I would think that that's where this
17 infectious disease or section would come from where
18 you may would put that in force, but it would be
19 based on them not doing something else correctly.
20 Then you could probably go to that if the person
21 became ill and it would all come out in a lawsuit.
22 And we could probably pursue that area, but until
23 then we wouldn't know. And our inspectors can't go
24 in and ask for a health record on somebody.

25 MR. JOCHUMS: Of course what could happen, and

1 the (b) section says that neither school nor salon
2 will require somebody to work on someone that -- they
3 must know they have a communicable disease. A
4 complaint from a student, "They're making me work on
5 "X", who has this dread disease", I'm sure this board
6 would take that up.

7 MR. PIPES: Okay.

8 MS. POWELL: I think in our situation and in his
9 particular situation is that of a state facility and
10 us being a state agency, we are really controlled by
11 federal agencies. So I think that is where what is
12 considered communicable and contagious diseases and
13 how we're going to be able to define it -- ever.

14 MR. PIPES: Okay.

15 MR. JOCHUMS: Thank you for the comments.

16 MR. KEENE: Oh, we have one other.

17 MS. HUGHES: Well, if I may I'll come up front
18 because I could tell it was a hot issue during break.
19 I'm proud to see you.

20 MR. KEENE: Introduce yourself and --

21 MS. HUGHES: I am Jenita Hughes from Riverside.
22 I've got the new proposed rulebook Rule No. 3 -
23 Examinations. And I bring all this up because I have
24 a student who graduated in '04 in July or June. And
25 she applied to take her test in September of '05 and

1 she was told that she lost her hours because it had
2 been over one year. And when we called we were
3 referred to the law book, statute 17-26-310 Failure
4 to Appear for Examination. The consensus in the room
5 is -- everyone's confused. So I'd just like a
6 clarification so I can talk to this student and we'd
7 know the facts.

8 MS. WITTUM: Explain the situation with the
9 student again, please.

10 MS. HUGHES: Her matriculation date was April,
11 '03. She graduated June, '04. She applied to take
12 the test September, '05. She was told that she would
13 have to meet before the board to see if they would
14 allow her to take the test because she had lost her
15 hours and no longer qualified.

16 MS. POWELL: Are we talking the three-year rule
17 there?

18 MS. HUGHES: A one-year rule or three-year rule?

19 MR. KEENE: No, she'd just need to pay another
20 fee and re-apply.

21 MS. HUGHES: Well, she had never paid a fee and
22 she never applied. Was there a deadline when you
23 graduate as to how soon you apply to take the test?

24 MR. KEENE: The hours are good for three years.

25 MS. HUGHES: Well, that was what I was under the

1 impression.

2 MR. KEENE: You're saying that she hadn't
3 registered and applied but didn't show up or --

4 MS. HUGHES: No.

5 MR. KEENE: -- she completed the school and
6 didn't apply for after one year.

7 MS. HUGHES: Right.

8 MR. KEENE: She should have been able to get
9 scheduled.

10 MS. HUGHES: Well, I think that we had talked to
11 Shaunta in the office and she said they're good for
12 three years, not expired. But then we talked to,
13 maybe, Cheryl in the office and it was no, after one
14 year she doesn't get them.

15 MR. KEENE: Cheryl, do you remember that
16 situation?

17 MS. ESAW: If a student, after they've completed
18 the 1500 hours, if they do not apply to take the exam
19 within one year after completing that 1500 hours they
20 lose the ability to take the exam. It had something
21 to do with failure to apply. If they apply and they
22 don't take the exam, they have to at least apply and
23 that locks in those hours for life.

24 MS. HUGHES: I don't know the deadline to apply.

25 MS. WITTUM: I read 310 in the law to say that

1 if they don't show up for examination.

2 MS. HUGHES: Right.

3 MS. WITTUM: And then on the one -- 17-26-310 --
4 is that the law?

5 MS. HUGHES: There is a partial on 416.

6 MR. KEENE: You're in the wrong rule book.

7 MS. HUGHES: This is where it is.

8 MS. WITTUM: Now where the 416 would apply is to
9 the student had not completed the entire course.

10 MS. HUGHES: Well, there's the part (2) to (b)
11 that says the "or." And there is --

12 MS. WITTUM: That still applies if the complete
13 has not been finished. (a) and (b) under 416 --

14 MS. HUGHES: Okay.

15 MS. WITTUM: -- so the one that most applies to
16 this situation, at least as far as I'm seeing it, is
17 310, where it talks about the one year.

18 MS. HUGHES: Okay. After being notified by the
19 board of his eligibility -- now what is that?

20 MS. WITTUM: That's what -- I read this --

21 MR. JOCHUMS: Does the board automatically send
22 something to everybody when they graduate, "hey new
23 graduates, you've got a year to apply."?

24 MS. HUGHES: No.

25 MS. WITTUM: No. They apply. They apply and

1 then we can send --

2 MR. JOCHUMS: So she never got a letter from the
3 board previous to --

4 MS. WITTUM: She never applied.

5 MS. HUGHES: Right. She never applied.

6 MS. WITTUM: She never applied so we never had
7 her on a list of eligible candidates.

8 MS. HUGHES: Except just, you know, the
9 completed hours form that I would mail in.

10 MR. JOCHUMS: Right.

11 MS. HUGHES: We was told you have to "freeze" to
12 have them held and I didn't know where that was.

13 MS. POWELL: I read this to mean that you had --
14 you -- if you did not apply within one year then you
15 would lose your place in that application.

16 MS. CAUDLE: Right.

17 MS. POWELL: And you would have to re-apply.

18 MS. CAUDLE: Right.

19 MS. HUGHES: Have you --

20 MS. WITTUM: If you did -- if you applied, but
21 did not appear.

22 MS. CAUDLE: Right. That's the way that it was
23 intended.

24 MS. WITTUM: But the hours are good for three
25 years.

1 MS. HUGHES: She can apply at any time during
2 that three year period?

3 MS. POWELL: But she would have to get a new
4 application.

5 MS. HUGHES: She never had an application. She
6 never applied.

7 MR. KEENE: She never had one to begin with.

8 MS. CAUDLE: All she had to do is apply.

9 MS. HUGHES: The application is the --

10 MS. POWELL: Well, I think too, the intent of
11 this law -- when this was done the school's were
12 responsible for turning in those applications.

13 MS. HUGHES: Well, the student's responsible for
14 it.

15 MS. POWELL: Absolutely, now. But I think
16 originally when we're looking at this, the intent of
17 this law was that the school instructor, whatever,
18 director would send in their certification of hours -
19 -

20 MS. MCKINNEY: Right.

21 MS. POWELL: -- along with a copy of their
22 permit and the application to say they have my
23 blessings to come to you and be examined. I think
24 the office now has changed that to where they are
25 wanting the student to be responsible for the

1 application. And they are themselves filling it out
2 is the way I understood it, the intent of that law.
3 I think that the office just assumed once the hours
4 are completed that people were turned into the office
5 and that is the application process. It's not the
6 application. I see where the board and the office
7 sits on that. But I think originally -- because all
8 we're talking about here is a piece of paper --

9 MS. HUGHES: And the \$30.00 fee.

10 MS. POWELL: -- and the \$30.00. I don't think
11 that it was ever intended to discredit someone from
12 the examination if they just didn't get the paperwork
13 turned in, but they didn't want to put a burden on
14 the administration for over a year. That gives that
15 student a year to get in. As they've given an excuse
16 here for someone that was in the armed forces, you
17 know, you've got a year to get your act together and
18 do the exam -- within reasonable. Yes, your hours
19 are still good for three years, but you have -- you
20 don't need to think that you're going to go in with
21 this application that the school sent in or you sent
22 in and then turn around and it's going to be good
23 indefinitely for three years. The office should not
24 be made responsible to handle this type of paper
25 burden for over a 12-month period. That's how I see

1 it.

2 MS. HUGHES: Well, I've heard --

3 MR. JOCHUMS: There's no paper burden if she
4 never sent it in.

5 MS. ESAW: Right.

6 MS. POWELL: Well, it is a responsibility in the
7 office to have to do not just the application but
8 they have to maintain -- they keep putting that
9 student, right? So they're not putting it on the
10 schedule any longer for an examination?

11 MS. WITTUM: No. We don't put them on the
12 schedule now, until we receive the application from
13 the student and the \$30.00. That's when we schedule
14 them to come in. I would see this 310 talking about
15 if we did that process, but they didn't show up on
16 exam day.

17 MS. POWELL: Right.

18 MS. WITTUM: Then they have one year to re-apply
19 or they're no longer eligible for the exam. Right?

20 MR. KEENE: Without re-filing and paying another
21 fee.

22 MS. WITTUM: Right.

23 MS. HUGHES: I thought the --

24 MS. WITTUM: And then under the rule under
25 examinations, the hours are good for the three years.

1 MS. HUGHES: I'm under the impression that every
2 time you make an application you've got to pay
3 another fee, no matter if it's one year, three years,
4 two months.

5 MS. WITTUM: That has been my --

6 MS. POWELL: It is.

7 MR. KEENE: You do now.

8 MS. WITTUM: -- my understanding.

9 MR. KEENE: You do now.

10 MS. HUGHES: Is that old rule or these new rules
11 that are being proposed?

12 MR. KEENE: That's been going on now for a year
13 or two.

14 MS. HUGHES: But I've heard --

15 MS. POWELL: Since '02, November of '02.

16 MS. HUGHES: Okay. So --

17 MR. KEENE: The old rule was they could apply
18 one time, pay a fee one time, they could fail that
19 exam, they could come back free of charge. Well, now
20 we stopped that in '02, right?

21 MS. POWELL: That's also because they had to go
22 back to school after so long and get more hours --

23 MR. KEENE: And we also took out the 500 extra
24 hours they had to receive and --

25 MS. POWELL: -- and that was all changed at that

1 time.

2 MR. KEENE: -- and --

3 MS. HUGHES: Well, this is a different question
4 -- the people who failed after two times and then
5 didn't go back because they didn't go back to school,
6 do they qualify still yet to go back and take the
7 test again?

8 BOARD MEMBER: Yes.

9 MS. HUGHES: Because I had several that wouldn't
10 do that.

11 MR. KEENE: Yeah.

12 MS. MCKINNEY: Yes, absolutely.

13 MR. KEENE: We took that law out. I mean we
14 changed that.

15 MS. HUGHES: And so it just went back to the old
16 one, is that what you're saying?

17 MS. WITTUM: People can -- it's my understanding
18 that students can apply to exam and then be examined
19 for as many times as they want as long as they pay
20 that examination fee of \$30.00.

21 MS. HUGHES: So what's the three-year or the
22 one-year?

23 MS. WITTUM: Their hours are good for three
24 years.

25 MS. HUGHES: But once you've tested you can

1 continue tests from here on out as long as you pay
2 the fee and re --

3 MR. DOWNEY: One of the primary reasons that we
4 did make a change in that is because on this national
5 exam every time we send for a test from SMT, it's
6 \$27.50 -- is that what it cost?

7 MS. WITTUM: It's -- it's --

8 MR. DOWNEY: Per exam?

9 MS. WITTUM: -- it's \$15.00 per for the
10 practical and the written. Well, it's currently
11 \$12.50 for the written. It's going up to \$15.00.
12 And the practical is \$15.00.

13 MR. DOWNEY: So if you took an individual that
14 got to take the test two or three times, well, the
15 board was losing money every time they took the exam.
16 So, you know, a business can't operate that way and
17 we couldn't either. So we had to look into ways to --
18 -

19 MR. KEENE: And the number of people -- and let
20 me interrupt you. And the number of students that
21 would fail to show up without calling or doing any of
22 that.

23 MR. JOCHUMS: Yeah.

24 MR. KEENE: That's what the one year is about.
25 If they apply, pay their fee, and then don't show up

1 without good cause the office had the authority to
2 not let that person take the exam for up to a year.
3 I think right now we penalize them if they don't show
4 up two examination periods?

5 MS. CAUDLE: She never applied.

6 MR. KEENE: You know, but -- you don't usually
7 have that problem.

8 MS. HUGHES: That's true. But I do have
9 students that, maybe go home before they get to be
10 tested. And then they go home and it's hard for them
11 to get everything together. It was like this girl,
12 in particular, you know a year and a few months to
13 get ready to go test. And then she was so
14 disheartened when she called and said they won't let
15 me test.

16 MR. KEENE: Well, she needs to re-apply or --

17 MS. HUGHES: She needs to apply.

18 MR. KEENE: -- she needs to --

19 MS. HUGHES: Well, she did but she was turned
20 down, but now she can re-apply?

21 MR. KEENE: Yes. How long has it been?

22 MS. HUGHES: What? She just called me last week
23 saying that she had been turned down.

24 MS. WITTUM: Do we have her paperwork in the
25 office? Cheryl, was it sent back?

1 MS. ESAW: We never received it.

2 MS. WITTUM: She had just called.

3 MS. HUGHES: She had called to see --

4 MR. KEENE: She needs to apply.

5 MS. HUGHES: Okay. So it's after -- three years
6 after I've turned in their 1500 hours they qualify to
7 apply to take that test, not three years from the
8 first hour that they got -- if it takes them 16
9 months to finish the course.

10 MS. MCKINNEY: Right.

11 MS. HUGHES: Okay. Thank you.

12 (Board members in disagreement with Ms. Hughes
13 last statement.)

14 MR. KEENE: So let's get clarification.

15 MS. CAUDLE: As the hours become three years old
16 --

17 MR. DOWNEY: The way I understand matriculation
18 --

19 MS. CAUDLE: -- you start losing hours.

20 BOARD MEMBER: Right.

21 MR. DOWNEY: -- matriculation date -- from their
22 matriculation date.

23 MS. CAUDLE: Like if they enroll five times,
24 they enroll that fourth time, say. If they have
25 hours on there that are already three years old, they

1 will lost those hours. And they get to keep the rest
2 of the hours as long as they enroll and keep a
3 continuous enrollment until they apply for exam.

4 MS. HUGHES: Who --

5 MR. KEENE: That has been an issue here many
6 times. And the board has made decision both ways.

7 MS. WITTUM: And that's too complicated to
8 follow --

9 MS. CAUDLE: It is complicated.

10 MS. WITTUM: -- for students as well as our
11 staff.

12 MS. CAUDLE: It is complicated in the office
13 trying to sort that out when someone enrolls and
14 you're trying to pull old monthly hours --

15 MS. WITTUM: Well, let's fix this one today
16 because I don't want this one.

17 MS. CAUDLE: -- and see how many are old or how
18 many are expired and how many they get to keep. And
19 then you send the student the letter and then the
20 student's upset because they lost so many hours and
21 it --

22 MR. KEENE: But I think the intent of that was
23 so that you didn't have students in school for three
24 to five years.

25 MS. MCKINNEY: Exactly. That was the whole

1 purpose of it.

2 MR. KEENE: You know, it was an encouragement to
3 the student to finish.

4 MS. MCKINNEY: And to keep them enrolled until
5 they did finish.

6 MR. KEENE: Right.

7 MS. MCKINNEY: That was the intent.

8 MS. HUGHES: I can see the finish date on the
9 matriculation -- each current enrollment or each
10 enrollment would be the three years prior, but I
11 can't see the matriculation date being the three year
12 rule. You know, because each time they drop out you
13 have to send in an hours of completion. So I can see
14 it being from that completion date being three years
15 back, but not from the matriculation date.

16 MS. WITTUM: So you're saying that if we got --

17 MS. HUGHES: Two enrollments --

18 MS. WITTUM: -- if we've received two or three
19 drops on a student to go by the drop date --

20 MS. HUGHES: Yes.

21 MS. WITTUM: -- for each one of those to
22 determine whether or not --

23 MS. HUGHES: Where the three year period stands.

24 MS. WITTUM: -- that three year period -- that
25 would make much more sense.

1 MS. POWELL: Can you --

2 MS. WITTUM: Cheryl, do you have a question?

3 MS. ESAW: That's what I was told to say. It
4 turned out -- the way that I was taught in the office
5 is that it turned out to be such a hassle going by
6 the matriculation date that we just adopted the
7 policy in the office to go by the drop date. Because
8 it was just too confusing, because so many students
9 would enroll and drop and enroll and drop and it just
10 got to be too complicated, too cumbersome. So we
11 adopted the policy in the office to use the drop
12 date.

13 MS. CAUDLE: And it is in this new book. Three
14 years from the release date.

15 MR. KEENE: So it's already been changed?

16 MS. CAUDLE: 17-12-416.

17 MS. GORDON: 17- 4-- what?

18 BOARD MEMBER: Hang on.

19 MS. HUGHES: What page?

20 MS. ESAW: Will become non-accredited after
21 three years from the release.

22 MS. STRAWN: Uhm --

23 MR. KEENE: Introduce yourself.

24 MS. STRAWN: Oh, I'm Chris Strawn. On the --
25 the yellow book -- is that the law book? That's the

1 law book, right?

2 BOARD MEMBER: Yes.

3 MS. STRAWN: Okay. Under partial credit, I --
4 you know, I'm certainly not a law interpreter, but it
5 seems to me that the law that you were just
6 discussing and that law contradict each other.
7 Because I've actually had students, I came -- I
8 appeared before you guys not too long ago over
9 Shaunta because it had always been the practice of
10 the board that they had three years from the date,
11 okay. Y'all remember what I'm talking about, right?

12 BOARD MEMBERS: Yes.

13 MS. STRAWN: Like if you, okay, if you start on
14 May 1, 2000, you have until May 1, 2003 to complete
15 your hours, okay? If in the interim you drop and
16 start and drop and start and drop and start, as long
17 as you come back to school before the third year
18 anniversary and keep and enrollment, though, and you
19 would keep your hours. But they suddenly quit -- the
20 office has suddenly quit doing that. And if you --
21 they're using the partial thing there. And that's
22 what Linda showed me in the law, the partial -- what
23 page is it on, Dawn?

24 MS. TURMAN: It's on page 20.

25 MS. STRAWN: So I --

1 MR. KEENE: I know what you're talking about
2 because I remember. Nick, as a matter of the fact
3 that made the motion --

4 MS. STRAWN: Yes.

5 MR. KEENE: -- to grant this particular girl's
6 hours.

7 MS. STRAWN: Right.

8 MR. KEENE: And going back and looking and
9 looking at the stop and starts and stop and starts,
10 it shouldn't have been done according to the rule
11 book. We actually went against our own law in doing
12 that. But then there was another case, and I don't
13 remember if it was the same day or one of the other
14 days where we didn't do it. We didn't allow it.

15 MS. STRAWN: Right.

16 MR. KEENE: So this is definitely an issue here
17 where we've got to start doing it the same way.

18 MS. STRAWN: I think it needs -- I definitely
19 need clarification as to, you know, tell us what to
20 do. And you know, I just need to know which one is
21 the correct way.

22 MS. WITTUM: What the statute currently says
23 that the students who have completed the course but
24 have failed to qualify and make application for the
25 examination, then the training will become non-

1 accredited in this state after three years from
2 school release, which would be the drop date.

3 MS. GORDON: Yes.

4 MS. WITTUM: And if you have someone who has
5 been denied hours by me since I've been here, that's
6 what I was basing mine on. Because I looked at the
7 date that the student was dropped from the school and
8 calculated whether or not three years had passed.
9 And if they had then those hours were no longer --

10 MS. STRAWN: The original drop date or the final
11 drop date?

12 MS. WITTUM: The drop date -- each drop date has
13 it's own release.

14 MS. HUGHES: It's for different hours.

15 MS. WITTUM: It's just like she was explaining.
16 That's why it was making so much sense. I've already
17 thought this through.

18 (Chorus of laughter.)

19 MS. WITTUM: Each drop date, your school is
20 releasing that student each time. If the student
21 comes back then they're enrolled and then if they
22 have another drop date that's just another drop date
23 that we would have to look at for that section of
24 hours.

25 MS. CAUDLE: Exactly.

1 MS. WITTUM: So the hours are not as a whole.
2 The hours are in sections -- if a student is
3 enrolling and dropping, enrolling and dropping.

4 MS. HUGHES: I see.

5 MS. WITTUM: And those would drop off after the
6 three years have passed based on this statute
7 according to the way I see it.

8 MR. KEENE: Nick.

9 MR. DOWNEY: My reasoning for making that motion
10 before, the reason it did pass was because she had
11 documentation that came from this board stating that
12 those hours were frozen.

13 MS. GORDON: Yes, that's true.

14 MR. DOWNEY: And that she would be allowed to
15 complete -- and I'm sure that she still has the same
16 documentation. So I didn't just make it off the top
17 of my head or at the kindness of Nick Downey. It was
18 done because the paperwork was there.

19 MS. TURMAN: It was.

20 MR. DOWNEY: (Inaudible.)

21 MS. HUGHES: Can I get a --

22 MR. KEENE: But it was also wrong.

23 MS. HUGHES: -- frozen? What does frozen mean?
24 I don't read it in here anywhere.

25 MR. DOWNEY: Well, that's something that was

1 done in the past.

2 MS. HUGHES: It's no longer?

3 MS. CAUDLE: The hours can be frozen after
4 application, after they complete it. And they can
5 freeze their hours.

6 MS. HUGHES: For how long?

7 (Multiple discussions taking place.)

8 MR. KEENE: Where are you getting the term
9 frozen anyway?

10 MS. HUGHES: He just gave it to me, that Nick
11 Downey.

12 MR. DOWNEY: That was a term that they used to
13 use to freeze the hours just like we've done --

14 MR. KEENE: But what does freeze hours mean?

15 MR. DOWNEY: That means they stay where they're
16 at.

17 MR. KEENE: For how long?

18 MR. DOWNEY: For as long -- as long as they are
19 enrolled as a full-time student and making the hours
20 was the way that documentation stated. That she was
21 an active student.

22 MR. KEENE: Excuse me. There's way too much
23 conversation going on. Did you get all that?

24 COURT REPORTER: Most of it.

25 MR. KEENE: Well, you're good.

1 COURT REPORTER: Well, those two and you. I
2 didn't get anybody else.

3 MR. KEENE: So, go ahead. You can speak and
4 continue to explain it.

5 MR. DOWNEY: I know what your board has done in
6 the past and it was more or less a director's
7 decision or somebody -- staff in the office making a
8 decision that yeah, we'll freeze these hours as long
9 as that individual -- and we've done it as a board.
10 We've even made this statement. We'll allow you to
11 keep those hours if you will, during this enrollment,
12 stay active. It can't be just going part-time and
13 dropping out part-time. You've got to be a full-time
14 student. So it has been done. The board has
15 approved --

16 MR. KEENE: So we allowed those hours that
17 actually would have been lapsed --

18 MR. DOWNEY: Yes. Right.

19 MR. KEENE: -- and they would have lost. We've
20 allowed them to have those hours as long as -- and we
21 put the stipulation on it, you maintain a continual
22 enrollment --

23 MR. DOWNEY: That's exactly right.

24 MR. KEENE: -- until you finish and take your
25 examination and pass.

1 MR. DOWNEY: That's exactly right.

2 MR. KEENE: If you fail, we took those hours
3 away and they had to go back to school.

4 BOARD MEMBER: No.

5 MR. KEENE: Oh, yes. I remember that. But that
6 is the whole point in what we're doing here today is
7 to make this consistent because it's not been
8 consistent.

9 MR. DOWNEY: That's right.

10 MS. HUGHES: Well, I'm hearing a freeze in
11 conjunction to holding the student's hours after they
12 have 1500 waiting for them to take the test. Once
13 you apply to take the test then those 1500 hours are
14 frozen either indefinitely or three years?

15 MR. KEENE: Three years.

16 MR. DOWNEY: Three years.

17 MR. KEENE: And that's in here.

18 MS. HUGHES: And after two and a half years I
19 can't apply and --

20 MS. CAUDLE: After you apply for exam.

21 MS. HUGHES: -- then they would freeze them?

22 MR. KEENE: Wait a minute. What? Go ahead.

23 MS. HUGHES: Do they freeze them after I apply
24 for exam?

25 MR. KEENE: Yeah, well, they're frozen from the

1 time that the application is --

2 MR. JOCHUMS: Yeah, I'd agree.

3 MS. HUGHES: So I don't have to apply to be
4 frozen?

5 MR. KEENE: You know they complete -- I don't
6 remember what -- the way it read.

7 MR. JOCHUMS: But it's from release from school,
8 the graduation date.

9 MR. KEENE: Right. Okay.

10 MS. HUGHES: They're automatically frozen?

11 MR. KEENE: It would be their last day in
12 school.

13 MS. HUGHES: I don't have to request a freeze
14 there, do I?

15 MR. KEENE: No, because you turned in a report -
16 -

17 MS. HUGHES: Right.

18 MR. KEENE: -- your monthly report would reflect
19 it.

20 MS. HUGHES: That's what I thought.

21 MS. CAUDLE: Once you apply for exam those hours
22 are there forever.

23 BOARD MEMBER: That's what I --

24 MR. KEENE: But for -- only for --

25 MS. MCKINNEY: No.

1 MS. HUGHES: They're there forever?

2 BOARD MEMBERS: That's what I thought.

3 MS. CAUDLE: You can take exam -- if you send in
4 your \$30.00 fee and apply for exam you can come ten
5 years later and take exam if you wish.

6 AUDIENCE MEMBER: Take their exam and they come
7 to that all the time.

8 MR. KEENE: Well, why in the world did they ever
9 make them go back to school if they fail?

10 MS. MCKINNEY: Well that -- this -- no. The
11 reason of the hours came after we changed and did
12 away with the 500 hours of having to go back to
13 school. So once they've made application to the
14 board --

15 MS. CAUDLE: Right.

16 MS. MCKINNEY: -- to sit for an examination --

17 MS. CAUDLE: Sent in their fee and their
18 application.

19 MS. MCKINNEY: -- then they have set those hours
20 in stone. And then they can come and keep paying
21 their \$30.00 as much as they won't to.

22 MS. TURMAN: And just keep on taking it. That's
23 right.

24 MR. KEENE: That's right. That's right.

25 MS. WITTUM: Where is that in the law book?

1 MS. CAUDLE: But you have to send in that
2 application for exam and that \$30.00 fee.

3 MS. GORDON: Before those three years --

4 MS. CAUDLE: And that's what freezes those hours
5 indefinitely.

6 (Multiple discussions taking place.)

7 MR. KEENE: Let's get on the record. She's not
8 been recording this.

9 MS. MCKINNEY: Okay.

10 MR. KEENE: Mitzie.

11 MS. MCKINNEY: The way the law is written, the
12 three year period, there's only one. And the three
13 years applies to the release of the -- from school,
14 so your certificate of training. Whatever date is on
15 the certificate training that the school sends to the
16 board, that date -- there's your three year marker.

17 MR. KEENE: They have -- let me understand.
18 They have from that date three years to apply and
19 pass the examination, otherwise the hours become
20 uncertified.

21 MS. MCKINNEY: Correct.

22 MR. JOCHUMS: So if they wait until the last
23 week of the last month and fail --

24 MS. HUGHES: Well, what if they don't pass after
25 the three years? What is the --

1 MR. KEENE: I just said. The hours would become
2 null and void.

3 MS. HUGHES: No longer qualified to test.

4 MS. POWELL: Because it does say failed or not
5 qualified.

6 MR. JOCHUMS: Yes.

7 (Multiple discussions taking place.)

8 MS. MCKINNEY: What the confusion has been and
9 what's been overlooked is that in that previous
10 paragraph where it's talking about the three years
11 and date of application, is the prior to the date of
12 application. Which to me, I'm translating the years
13 prior to the date of application is referring to the
14 school's release of hours.

15 MR. KEENE: Yeah, uh-huh. That's the way I read
16 it too.

17 MS. MCKINNEY: And that refers to the years --

18 MS. CAUDLE: That's what I said.

19 MR. KEENE: Did that help you?

20 MS. HUGHES: I just need a little clarification.

21 MR. JOCHUMS: Would it help in this rule 3.2 if
22 we added another sentence of something to the effect
23 of a student must apply and pass the examination
24 within three days of the --

25 MR. KEENE: Three years.

1 MR. JOCHUMS: -- three years on the date on the
2 certificate of whatever you call it -- completion.

3 MS. POWELL: Well and I think -- yeah, I think
4 it goes back to what it said originally. It was
5 expected that once you complete the program that's
6 the official ending date. That's the clock ticking.
7 The schools were responsible to maintain records for
8 that length of time, for three years. Actually at
9 that time it was five, now it's three. So it just
10 supports the intent of this law.

11 MR. KEENE: And you said you wanted
12 clarification?

13 MS. HUGHES: Yes, I'm still reading under this
14 partial credit. I think that's the one she just
15 read, "but have failed to qualify" -- and this is
16 partial credit for like if they just have 500 hours,
17 I guess, and make application for examination then
18 the training would become non-accredited. So to me
19 that doesn't, to me, say anything about failing the
20 test. Because this is partial credit. I hadn't seen
21 anything about -- what I was hearing a while ago is
22 you could take the test indefinitely.

23 MS. POWELL: No, it's three years.

24 MR. JOCHUMS: How could you even take the test
25 if you only had partial credit?

1 MS. POWELL: Well, you couldn't. You couldn't.
2 If you don't have the 1500 hours you couldn't be
3 taking the test to begin with.

4 MS. HUGHES: All right, so this is your partial
5 credit and making application. I don't see this as
6 exam information.

7 MS. WITTUM: Well under (b) it does refer to the
8 people who have completed the course but have failed
9 to qualify and they can submit an application for the
10 examination.

11 MS. HUGHES: Okay. So it don't say they failed
12 the examination.

13 MS. WITTUM: That didn't qualify. I would
14 interpret that to mean that they didn't -- they
15 didn't qualify as far as the examination process
16 whether that be to fail to submit the examination
17 application or failed to successfully complete that
18 test.

19 MS. HUGHES: I don't -- I don't read that.

20 MR. JOCHUMS: Except qualifies in the sentence
21 in front of application, so I don't think that would
22 be the test.

23 MS. WITTUM: Okay.

24 MS. CAUDLE: Right.

25 MS. HUGHES: So that would be sending in the

1 correct paperwork and things like that I can see.
2 But I don't see the examination deadlines, The
3 passing examination deadlines.

4 MR. KEENE: Well and it also talks about the
5 tuition being paid. Maybe the hours were there --

6 MS. HUGHES: But that's the qualified --

7 MR. KEENE: -- but they didn't pay up their
8 tuition paid. Because I think that was a big issue.
9 That's what they're talking about partial. You're
10 getting partial credit by having completed the course
11 of study, but you may -- but only partial because you
12 didn't pay your tuition.

13 MS. CAUDLE: Right.

14 MR. KEENE: So that's a way to keep --

15 MS. HUGHES: That has nothing to do with the
16 exam.

17 MR. KEENE: -- from getting their license and
18 still owing the school.

19 MS. HUGHES: Right.

20 MR. KEENE: I think that it -- that's what they
21 mean by -- disposable credit.

22 MR. JOCHUMS: So that means that you pay for it
23 later. Once you've paid you can take the test --

24 MR. KEENE: Right.

25 MR. JOCHUMS: -- if you pay off within three

1 years.

2 MR. KEENE: Well, --

3 MS. MCKINNEY: Well, I thought it was referring
4 to --

5 MR. KEENE: They're giving that a three year
6 period, too, then.

7 MS. MCKINNEY: Cliff, I thought the term partial
8 credit was referring to how the loss of hours comes
9 around.

10 MS. TURMAN: Yes. It is.

11 MR. KEENE: Well, I think it --

12 MS. MCKINNEY: That's where I think of partial
13 credit.

14 MR. KEENE: I think it's all encompassing. It's
15 all of that.

16 MS. POWELL: Well, --

17 MR. JOCHUMS: But actually, it really the
18 language is confusing. Because the (a) section is
19 talking about you drop in and drop out.

20 MS. MCKINNEY: Transfer students.

21 MR. JOCHUMS: And now when you go three years
22 back from when you were released. The (b) section,
23 to me, means you're done with school.

24 MS. MCKINNEY: Right.

25 MR. JOCHUMS: But that's impossible if they only

1 have partial hours.

2 MS. MCKINNEY: Right.

3 MR. JOCHUMS: So where does partial hours come
4 from?

5 MS. HUGHES: They haven't paid for them. They
6 haven't acquired them.

7 MS. MCKINNEY: Cliff.

8 MR. JOCHUMS: That's the only answer I can see.

9 (Phone ringing.)

10 MS. MCKINNEY: Where it's going -- what it's
11 talking about is it's still addressing the thing from
12 the release date. It's three years. Now the
13 transferring in and out, when a student transfers
14 into a school then it's the school's responsibility
15 if the office doesn't immediately do it to request --
16 to request transcript --

17 MR. KEENE: I don't know what you've said.

18 MS. MCKINNEY: Okay.

19 MR. KEENE: LaJoy.

20 MS. GORDON: Sorry.

21 MR. KEENE: Turn them off.

22 MS. GORDON: I forgot.

23 MS. MCKINNEY: Okay. What was addressed with
24 the transfer of hours and the transfer of students
25 and such -- when a student goes to another

1 institution, it's the school's responsibility if they
2 don't immediately receive it from the office to
3 contact the office and ask for a transcript of the
4 previous certified hours or what hours weren't
5 certified. Then that gives you their date. It's on
6 -- there's a little piece of paper and it gives you
7 the date that those hours were good. Sheila, you
8 know which one I'm talking about? I don't think it
9 has a name, but it's like a --

10 MS. CAUDLE: It's an hours certification form.

11 MS. MCKINNEY: An hours certification form, but
12 it says they received -- such and such student
13 received this many hours from this school and it says
14 that they're certified or they're uncertified.

15 MS. CAUDLE: Right.

16 MS. MCKINNEY: And then it breaks those hours
17 down. Well, the new school has that first date, that
18 school release date. So that right there tells you
19 and you can do the math if you're going to have
20 enough time to get that student through school to
21 meet the three year deadline or if you need to go
22 ahead and tell the student, you know, we're going to
23 need to --

24 MS. CAUDLE: But if those hours are not three
25 years old when you receive them and they keep a

1 continuous enrollment, that was the thing for the
2 continuous enrollment. It doesn't matter on that
3 first enrollment if they've become over three years
4 old if they keep a continuous enrollment.

5 MS. MCKINNEY: No, no, no, no. We didn't vote
6 for it to be for everybody. We just -- that was an
7 individual case --

8 MS. CAUDLE: Okay.

9 MS. MCKINNEY: -- that came before the board and
10 we ruled on that individual case. I don't think we
11 had put in motion a change of regulation for
12 everybody. We were going to take it on a case by
13 case basis.

14 MS. POWELL: Well, I think --

15 MR. KEENE: Jane?

16 MS. POWELL: I think it's real clear that the --
17 it's a three year limit to get your 1500 hours and
18 after -- or let's just even figure. We've got 600
19 hour drop-ins out there. So to define the three
20 years, it's real simple. To complete the program
21 within three years, which is the application date
22 officially would be. It's three years. And other
23 than that they would lose those hours from the date,
24 the ending date --

25 MS. WITTUM: It would be the drop date.

1 MS. POWELL: -- the date that that -- the drop
2 date. The date that the institution said they've
3 got, whether they went to one school and got 500
4 hours, those hours are good for three years and from
5 the date that they dropped. And if they went
6 somewhere else and got another thousand hours, those
7 thousand hours are good for three years.

8 MR. KEENE: Well, --

9 MS. MCKINNEY: And they always have the right --
10 they can ask for a hearing.

11 MR. KEENE: And the sitting board may do
12 something different, Nick.

13 MR. DOWNEY: That's the reason for them to
14 petition the board for the -- for the very reason
15 that some individuals -- you know, we're assuming
16 that all students were to go into school, complete
17 that course within a year. Suppose we were sitting
18 in New Orleans, Louisiana.

19 BOARD MEMBERS: Right.

20 MR. DOWNEY: You know, these people are going to
21 be displaced for two or three years there.

22 MS. TURMAN: Yes.

23 MR. DOWNEY: So what would we do in a situation
24 like that? We'd take them on an individual basis.

25 MS. POWELL: That's right.

1 MR. DOWNEY: Someone gets in a car accident.
2 You know, they're laid up in the hospital for a year,
3 but they're still going to be a cosmetologist and
4 they come out of it fine. They should be able to
5 petition this board and take it on a case by case
6 situation so that we can make the decision on whether
7 they keep those hours.

8 MR. KEENE: Well, I think that --

9 MR. DOWNEY: And we've always done that.

10 MR. KEENE: Once again, I'll say what -- you
11 know, our purpose for being here is to get
12 clarification on all of this so that our office is
13 doing the same thing each time. Certainly, that's --
14 none of this is changing the fact that anybody can
15 petition this board and ask for something different.
16 And as far as the hurricane people, we're going to
17 deal with them this afternoon. And some information
18 can be relayed from our office to the audience about
19 that -- and as the rest of the board members you may
20 not all know everything that --

21 MS. TURMAN: Well, --

22 MR. KEENE: Go ahead, Pat.

23 MS. TURMAN: We proceed, which is what Nick
24 said. Can't we put the terminology in so that we go
25 by these guidelines at the end of this third year

1 that they -- that's it. And then that they could
2 petition the board so we don't have to go through all
3 this again?

4 MR. KEENE: That they can petition the board?

5 MR. TURMAN: Well, of course, no. I mean go
6 ahead and put it at the three year -- at the ending
7 of three years. That's it.

8 MS. POWELL: It is there.

9 MS. TURMAN: Where?

10 MS. POWELL: It's there.

11 MS. TURMAN: But in clear terminology so that --

12 MS. POWELL: No. I think it's clear. I think
13 that there's just been exceptions made within the
14 office and different ones were told that there was
15 different -- I think it's in the administrative
16 office now that it won't be confused.

17 MS. TURMAN: Okay.

18 MS. POWELL: It's in the law book.

19 MS. TURMAN: Okay. I know it's there, but it
20 won't be confusing to other -- to anyone that would
21 look at the laws.

22 MS. POWELL: I don't think so.

23 MS. MCKINNEY: It's not going to be confusing
24 any longer.

25 MS. POWELL: I don't think so.

1 MS. TURMAN: Okay. That's all I have to say.

2 MR. KEENE: Okay. Are we through with this
3 issue?

4 MS. HUGHES: Okay. Just let me clarify.

5 (Chorus of laughter.)

6 MS. HUGHES: Okay. So there's no rule that you
7 must sit for the exam within one year and that you
8 must pass it within three?

9 BOARD MEMBERS: No. Yes.

10 MS. HUGHES: You must pass it within three --

11 MS. MCKINNEY: If you make application.

12 MS. POWELL: No.

13 MS. MCKINNEY: It said -- didn't it say that if
14 you made application --

15 MS. POWELL: No.

16 MS. MCKINNEY: -- then you only had a year?

17 MS. POWELL: No. You have three years from the
18 day the school drops you to make application and pass
19 the examination or it's over.

20 MS. HUGHES: I'll buy that.

21 MS. POWELL: And it's over from that date of
22 that drop date. That's the date their defining.

23 MS. HUGHES: The hours are good for three years
24 whether you apply to take the test or not?

25 MS. POWELL: Yes.

1 MR. KEENE: Right.

2 MS. HUGHES: Those hours are good for three
3 years?

4 MR. KEENE: Right.

5 MS. HUGHES: You can test on those hours for
6 three years?

7 MR. KEENE: Correct.

8 MS. POWELL: Yes.

9 MR. KEENE: Tell that person to re-apply. I
10 have to take a little break, I'm sorry. We'll be
11 back after a quarter after eleven, because we still
12 have two more people we need to hear from.

13 (A short break was taken.)

14 MR. KEENE: I think the next one I had on my
15 list was Tina Despain, wanted to speak about the
16 nails, right?

17 MS. DESPAIN: Yes.

18 MR. KEENE: Or the nail section or something to
19 that effect.

20 MS. DESPAIN: My name is Tina Despain. I'm from
21 Mountain Home, Arkansas. And I wanted to talk about
22 the new additions to the nail manicure hours
23 required. They're adding 200 hours of advanced nail
24 technology.

25 MR. JOCHUMS: What rule are you referring to

1 with this? Is there a number next to it?

2 MS. DESPAIN: 610.

3 MR. JOCHUMS: Okay. Thank you.

4 BOARD MEMBER: What rule number?

5 MS. DESPAIN: 610.

6 MR. KEENE: What about it? Okay, what about it?

7 MS. DESPAIN: They're adding -- it used to be
8 350 hours, now it's 600 hours. And they have the
9 advanced nail technology. There's no nail
10 instructors?

11 MR. KEENE: Uh-huh?

12 MS. DESPAIN: It's taught by --

13 MR. KEENE: Are you saying that there's -- there
14 aren't any nail instructors versus --

15 MS. DESPAIN: Right.

16 MR. KEENE: -- cosmetology instructors?

17 MS. DESPAIN: Right.

18 MR. KEENE: Okay.

19 MS. DESPAIN: They're taught by a cosmetology
20 instructor?

21 MR. KEENE: Yes.

22 MS. DESPAIN: And when you get your cosmetology
23 license there's only a hundred hours in manicuring.
24 Are cosmetologists doing artificial nails with just a
25 hundred hours manicuring?

1 MR. KEENE: I would say yes.

2 MS. DESPAIN: And then we have the no nail
3 instructors teaching this nail program?

4 MR. KEENE: Right. We don't have a nail
5 instructor license in the state. We have an
6 instructor's license.

7 MS. TRAYLOR: That's right.

8 MS. DESPAIN: Is that something that's being
9 worked on?

10 MR. KEENE: Not that I'm aware of.

11 MS. TRAYLOR: No. Most states don't have.

12 MS. DESPAIN: And a lot of states do have.

13 MS. TRAYLOR: A lot of them don't.

14 MS. DESPAIN: How come Arkansas doesn't?

15 (Multiple speakers attempting to speak.)

16 MS. TRAYLOR: There's not that much demand.

17 MR. KEENE: Excuse me. She asked a question as
18 to why Arkansas does not have an instructor, a
19 manicuring instructor, licensed nail technician --
20 whatever you want to call the person.

21 MS. DESPAIN: Uh-huh.

22 MR. KEENE: Does anyone want to address that?

23 (No response.)

24 MR. KEENE: No one wants to answer that
25 question.

1 MS. DESPAIN: Okay.

2 MS. POWELL: I think under our --

3 MR. KEENE: Jane.

4 MS. POWELL: I think under our current law it
5 identifies an instructor as a cosmetologist holding a
6 cosmetology license first.

7 MS. DESPAIN: Is the cosmetologist instructor,
8 since the changes have been made in the curriculum,
9 has the cosmetologist instructor had to do continued
10 education to meet the qualifications for this?

11 MS. POWELL: Yes.

12 MR. KEENE: There's continuing education
13 required for instructors in this state. Now what the
14 subject matter is varies.

15 MS. DESPAIN: Well, this is leaving the nail
16 industry wide open for lots of problems.

17 MR. KEENE: Mitzie?

18 MS. MCKINNEY: I think what may answer your
19 question is in the instructor's examination, even
20 though they hold a cosmetology, --

21 MS. DESPAIN: Uh-huh.

22 MS. MCKINNEY: -- they can pull any subject from
23 under cosmetology. So it doesn't mean that they're
24 only -- your instructors are only examined and
25 licensed via doing a haircut or whatever. They may

1 have to teach a sculptured nail class.

2 MS. DESPAIN: Uh-huh.

3 MS. MCKINNEY: So I mean it -- we do address it.
4 We address it through examination.

5 MR. KEENE: Tell us a little bit about, I guess,
6 what brought you here about this. What's your --

7 MS. DESPAIN: Because I'm a cosmeto --

8 MR. KEENE: What's your point here?

9 MS. DESPAIN: I'm a cosmetologist working as a
10 specialist in nails. I've been a nail technician for
11 six years. I've had my cosmetology license since
12 1990. And I have recently -- my job is being
13 jeopardized by contact dermatitis.

14 MR. KEENE: By what?

15 MS. DESPAIN: Contact dermatitis --

16 MR. KEENE: Oh, okay.

17 MS. DESPAIN: -- over-exposure to chemicals.

18 MR. KEENE: Uh-huh.

19 MS. DESPAIN: I feel like that cosmetology
20 licensed, if they're doing nails, they're really open
21 to not only disease, but this type of thing, contact
22 dermatitis. It's not covered in cosmetology --
23 contact dermatitis.

24 BOARD MEMBER: Yes, it is.

25 MS. DESPAIN: You're getting this under, you

1 know, the advanced --

2 MS. POWELL: It is.

3 MR. DOWNEY: It certainly is.

4 MS. DESPAIN: But this -- this manicure, this
5 advanced nail technology, it needs to be supported by
6 a nail instructor.

7 MR. KEENE: But didn't you just say that you
8 were a cosmetologist?

9 MS. DESPAIN: Yes. And that's why I also
10 believe that the Cosmetology Board needs to consider
11 cosmetologist doing nails.

12 MS. MCKINNEY: We did.

13 MS. DESPAIN: There's no laws. If there had
14 have been something for it -- but when I took my
15 cosmetology there was no discussion on over-exposure
16 to chemicals, which it falls under the nail license.

17 MR. KEENE: But wouldn't -- I'm going to step
18 out here, because I'm not a school owner or an
19 instructor, but wouldn't your chemistry section in
20 your health and sanitation hygiene deal with what you
21 just said?

22 MS. POWELL: Absolutely.

23 MS. MCKINNEY: Yes, it does.

24 MS. TRAYLOR: It does.

25 MS. DESPAIN: Not enough.

1 MR. KEENE: Well, --

2 MS. POWELL: Well, --

3 MR. KEENE: We're not going to get into what is
4 enough and what isn't enough, because that's all
5 relevant. But if you -- you said you were a licensed
6 cosmetologist, --

7 MS. DESPAIN: Uh-huh.

8 MR. KEENE: Do you also have an instructor's
9 license in something?

10 MS. DESPAIN: No.

11 MR. KEENE: Okay. That means you haven't been
12 through the instructor's training, right?

13 MS. DESPAIN: Right.

14 MR. KEENE: I'm stepping out here, folks, all
15 right? So I want some support here. If -- I would
16 think that if you had gone through the instructor
17 training program --

18 MS. DESPAIN: Uh-huh.

19 MR. KEENE: -- you might have a different view
20 point on that.

21 MS. DESPAIN: Uh-huh.

22 MR. KEENE: Okay?

23 MS. DESPAIN: Okay.

24 MR. KEENE: I understand where you're coming
25 from --

1 MS. DESPAIN: So now you believe that there
2 needs to be --

3 MR. KEENE: -- and you may be --

4 MS. DESPAIN: -- nail instructors --

5 MR. KEENE: -- you may -- excuse me.

6 MS. DESPAIN: -- in the state of Arkansas?

7 MR. KEENE: You may be correct in that maybe
8 this board does need to have an manicuring
9 instructor's license. We may start discussing that.

10 MS. DESPAIN: Uh-huh.

11 MR. KEENE: But coming in and basically and tell
12 -- talking this way to this board, that you think
13 this and you think that without having the background
14 yourself, I think is a little premature.

15 MS. DESPAIN: That's what I'm saying, is because
16 I don't. There needs to be changes in this -- I
17 might've.

18 MR. KEENE: Okay.

19 MS. DESPAIN: I might've learned more about it.

20 MR. KEENE: Now that's better.

21 MS. DESPAIN: You know.

22 MR. KEENE: But you didn't stipulate that up
23 front.

24 MS. DESPAIN: Okay.

25 MR. KEENE: Now if you're asking this board to

1 start maybe considering a manicurist instructor's
2 license --

3 MS. DESPAIN: Uh-huh.

4 MR. KEENE: -- I think the board will take it in
5 consideration.

6 MS. DESPAIN: I think it would be a great idea.

7 MR. KEENE: Okay.

8 MS. DESPAIN: You know, to consider it. The
9 business is growing. I think it would be a great
10 benefit to the Board of Cosmetology to emphasize more
11 in this branch of this work. You know we're talking
12 about doing quality work and quality education and
13 just the advanced nail technology is great. You
14 know, this program is great, but I think it needs a
15 little bit more support -- is all I'm asking.

16 MR. KEENE: Okay.

17 MS. DESPAIN: You know, for the board to support
18 the nail aspect of cosmetology.

19 MR. KEENE: I --

20 MS. DESPAIN: -- so it could be approved?

21 MR. KEENE: So, Veda?

22 MS. TRAYLOR: I -- it's fine, but not -- our
23 schools in our state are not large enough to employ
24 one person to teach one course. That is to say for
25 instance, we don't require them to have a special

1 school for instructors. We don't require them to
2 have special schools for esthetics. I mean
3 cosmetologists can teach it. And it would be a
4 hardship on our schools to have to employ one
5 instructor, as hard as instructors are to come by, --

6 MS. DESPAIN: Uh-huh.

7 MS. TRAYLOR: -- for that one particular thing.
8 And that would be all they would do.

9 MS. DESPAIN: Uh-huh.

10 MR. KEENE: Jane?

11 MS. POWELL: I think under advanced topics in
12 the curriculum for the schools, that is covering
13 areas of an art, the development of an acrylic nail,
14 a gel nail, that type of issue. The academics on
15 safety and sanitation -- all of these are under
16 health issues of which are the same health issues
17 that we would teach any practicing program in -- I
18 mean, the school training facility. So under
19 advanced topics, it would seem unreasonable to hire
20 someone to come in and just teach an art form.

21 MS. DESPAIN: Uh-huh.

22 MS. POWELL: It would need to be, I think, a
23 broader spectrum and since it doesn't entail more
24 than just a little bit of art.

25 MS. DESPAIN: Uh-huh.

1 MS. POWELL: You know, a nail tech is as
2 qualified whether she does an acrylic nail or not.
3 That's their particular art development. Health and
4 safety is simply our biggest issue when it comes to a
5 nail technician.

6 MS. DESPAIN: Uh-huh.

7 MS. POWELL: And that is covered under the scope
8 of practice in the curriculum --

9 MS. DESPAIN: Uh-huh.

10 MS. POWELL: -- that a cosmetologist would teach
11 anyone on health and safety issues. Art is
12 developed. It takes years to develop a pretty art,
13 just as in nails as it would in a roller set or a
14 haircut or anything. That's called experience. And
15 schools teach the basic principles of -- and
16 definitely the health and safety. They can't teach
17 you experience. That's something that's developed.
18 And that's why it's called advanced beginner art
19 topics.

20 MS. DESPAIN: My concerns was the health and
21 safety. I'm not sure -- I assume that a nail
22 technician could cover that area more in depth if
23 there were nail instructors.

24 MR. KEENE: What issues do you see --

25 MS. DESPAIN: But that is covered --

1 MR. KEENE: -- are different that the manicurist
2 deals with health and safety-wise than what the
3 cosmetologist deals with?

4 MS. DESPAIN: The difference?

5 MR. KEENE: What different -- what different
6 health issues?

7 MS. DESPAIN: The chemicals.

8 MR. KEENE: The chemicals.

9 MS. DESPAIN: Uh-huh.

10 MR. KEENE: Such as?

11 MS. DESPAIN: The monomers that are used. The
12 get that is used.

13 MR. KEENE: And --

14 MS. DESPAIN: When you're filing of inhaling the
15 dust; contact of the chemical to your client and
16 yourself.

17 MR. KEENE: Are those not in the -- in the
18 manicure -- the cosmetology book? I'm seeing heads
19 shaking "yes" back in the audience, so. I can
20 understand you thinking that there needs to be more
21 education involved in it, but --

22 MS. DESPAIN: That's what I'm getting at.

23 MR. KEENE: Yeah.

24 MS. DESPAIN: I just feel like that there needs
25 to be more education in the nail industry. And if

1 the board would consider a program for nail
2 instructors, I think it would only help.

3 MR. KEENE: Jane?

4 MS. POWELL: I'm just going to have to speak one
5 last time on this particular issue. I just think
6 that in your instance, you need to be aware of what -
7 - you were exempling the advanced nail technology
8 phase of this curriculum. And in that advanced nail
9 technology curriculum, it has -- it is not dealing
10 with what you're specifically speaking of. You're
11 talking about chemicals. They're using chemicals,
12 but in the curriculum, it is the development to
13 create a nail. It's not into the science of health
14 and safety issues. That's what nail -- advanced nail
15 technology means. That's what the curriculum means.
16 It's an art. It's not any more to do with more
17 sanitation or more health or more safety. It is
18 strictly identifying a particular area of curriculum
19 that means nail art.

20 MS. DESPAIN: Okay. Well, thanks for clarifying
21 that.

22 MR. KEENE: And we'll -- we'll definitely
23 discuss that.

24 MS. DESPAIN: Yeah, I just think it would help
25 the --

1 MR. KEENE: Because I know that that has been
2 discussion in the past.

3 MS. DESPAIN: I just think it would help our
4 industry and it would be a benefit to the cosmetology
5 industry. It all falls under the same language,
6 rules. I just think it's growing so fast that you
7 would definitely get, with a nail instructor, more
8 specified to prepare these nail technicians. And
9 that was my only concern, is that nail technicians
10 out there are trained and qualified as much as
11 possible. So if the board will consider that in the
12 future, I'd appreciate it.

13 MR. KEENE: Okay.

14 MS. DESPAIN: Thank you.

15 MR. KEENE: Now, next was Dawn Creekmore. You
16 wanted to talk again?

17 MS. CREEKMORE: Yes.

18 MR. KEENE: About?

19 MS. CREEKMORE: I am going -- I'm referring back
20 to what we were --

21 MR. JOCHUMS: Why don't you come up here closer
22 so we can make sure that everybody can hear you.

23 MS. CREEKMORE: I am re-referring to what we
24 were discussing earlier about the extracurricular
25 hours. In light of the fact that the cosmetology

1 board has in it's rules and regulations, 17-26-304,
2 that in order for a student to take their exam that
3 one of the requirements is that they have training of
4 at least one thousand five hundred or 1500 hours, not
5 more than eight hours a day and six days per week. I
6 would like to ask that the board initiate a policy to
7 be added to this that would allow a student to
8 receive hours through and outside educational class.

9 MS. WITTUM: Which statute are you on again,
10 Dawn?

11 MS. CREEKMORE: 17-26-304. It's on page 11.
12 And under number four it's listed as (a). It says
13 training of at least 1500 hours, not more than eight
14 hours a day, six days per week. It does not say
15 where those hours come from.

16 MR. KEENE: But there is a breakdown on the
17 curriculum that does say where the hours are supposed
18 to come from.

19 MS. CREEKMORE: Right.

20 MR. KEENE: And there's no leeway for the
21 extracurricular.

22 MS. CREEKMORE: But in the curriculum it doesn't
23 really specify where it comes from, does it?

24 MR. KEENE: Yeah.

25 MS. CREEKMORE: Where?

1 MR. KEENE: Yeah. It says exactly how many
2 hours you're supposed to have in each subject matter.

3 MS. CREEKMORE: Well, couldn't some of the --

4 MR. KEENE: I looked at it last night just to
5 make sure.

6 MS. CREEKMORE: Okay. Couldn't some of those
7 hours in the curriculum come from a class outside of
8 school?

9 MR. KEENE: If we change the curriculum and the
10 hours that are required in there and add that line of
11 extracurricular or whatever you want to label it as
12 and how many hours that are required there, then
13 you're going to be removing hours from another
14 subject matter. And you're leaving those up --
15 you're already doing this in your manicurist and
16 esthetician course.

17 MS. CREEKMORE: Right.

18 MR. KEENE: There's a certain number of hours
19 that are up to your discretion as an instructor.

20 MS. CREEKMORE: Okay.

21 MR. KEENE: We don't have that in the
22 cosmetology.

23 MS. CREEKMORE: Then I am proposing that we do
24 that for the curriculum for cosmetology.

25 MR. KEENE: Okay. Then that's a law change.

1 And --

2 MS. CREEKMORE: Once again.

3 (Chorus of laughter.)

4 MR. KEENE: And it will be the next legislative
5 session before that could become a law change.

6 MS. CREEKMORE: Right. Where is that on the
7 manicuring and esthetician?

8 MR. KEENE: I'm sorry, what?

9 MS. CREEKMORE: Where is that in the manicuring
10 and esthetician --

11 MR. KEENE: Oh, there it is. Thirty. No,
12 that's electro logy. Cosmetology starts on 28, at
13 the bottom.

14 MS. WITTUM: That won't be the right page number
15 if you're looking at the marked up copy.

16 MS. MCKINNEY: It's 31.

17 MR. KEENE: Your numbers are different, Mitzie,
18 than what I have in this book.

19 MS. MCKINNEY: No, I'm in the marked up copy.

20 MR. KEENE: Yeah?

21 MS. STRAWN: Chris Strawn. Speaking about the
22 curriculum, I see -- I don't see how taking a student
23 to a class on haircutting or hair color or shop
24 management or any of that would -- I don't see how
25 that would be pulled -- that isn't different than our

1 curriculum. Now, if we took our students to cooking
2 classes, that's not in the curriculum. And I --
3 that's where I see the difference. Do you understand
4 what I'm saying? And in the past we always had to
5 give ten days notice. We had to make sure that there
6 was a teacher there to monitor our students. We had
7 to tell what the class was about. I'm just surprised
8 that this is an issue. I mean I really am. And I
9 mean I don't think we need to take our students to
10 the Broder Brothers, and you know, the shows in
11 Atlanta, and ** Color Show, our class coming up in --

12 MS. AKARD: They can count as theory.

13 MS. STRAWN: Right. They could even be counted
14 as theory hours, really. Because I mean they're
15 sitting in classes watching and listening and that's
16 theory. You know they're not actually practicing --
17 and then there's some classes that I think NCA has
18 where they can go and --

19 MR. KEENE: I'll tell you where my personal --
20 and I was the one on stage, now, I've already said
21 that. I've done that. I've encouraged people to go
22 to shows to help pay me. But my purpose of being
23 there was to sell product. And I think that's
24 totally against everything that has to do with any
25 kind of extracurricular or education is to sell a

1 student products.

2 MS. STRAWN: Well, --

3 MR. KEENE: I also know a fact of situations
4 where schools take their students to supply houses.
5 And that's not -- that's all about product. And
6 that's taking from somebody that may just be an
7 eighteen year old sales clerk that's being
8 responsible for this student to explain a product
9 they don't know squat about. Hair shows -- you go
10 into those big stages and that's all it is. It's a
11 big 'ole show. There's nothing -- there's very
12 little education. You keep your students at the
13 little small stages where the technical work is going
14 on and yes, you can get education there.

15 MS. STRAWN: Well, again on a case by case
16 basis, I think -- I just think saying that we cannot
17 take our students anywhere to get education outside
18 as long as we have a teacher -- I just, you know.

19 MR. KEENE: You're still missing it that there's
20 also the liability issue of if we condone you taking
21 your students off-campus, then we are also taking
22 responsibility for that student. And that's
23 something that this board is not going to do. You
24 know. We're not saying you can't take that
25 responsibility and take them on. But they're going

1 to have to do it without hours. You want to bring
2 and have extracurricular and have them come on-site -
3 - that's something the board might consider. But as
4 to taking them elsewhere I won't go for that, but --

5 MS. STRAWN: Well, I don't understand where the
6 -- where all of the sudden we're not going for that.
7 I mean we've done it for years.

8 MR. KEENE: Because things change.

9 MS. STRAWN: You know we had --

10 MR. KEENE: Things change. Decisions --

11 MS. STRAWN: Without notice.

12 MR. KEENE: -- get -- huh-uh. Nobody said
13 anything about not notice.

14 MS. STRAWN: Okay. The problem is we've spent a
15 lot of money on this thing coming up. And like,
16 Broder Brothers -- what did Broder Brothers say to
17 you?

18 MR. KEENE: You did it without getting approval
19 first. You just said you had the ten day approval.
20 You, yourself, said that. You didn't get approval
21 first.

22 MS. STRAWN: It's ten days prior to the event.
23 Ten days prior to the event.

24 MR. KEENE: Yeah. You still didn't get approval
25 before you did the event.

1 MS. STRAWN: Okay.

2 MR. KEENE: Before you spent your money is what
3 I'm saying.

4 MS. AKARD: Well --

5 MS. STRAWN: Okay.

6 MR. KEENE: Tracy or -- you both kind of went at
7 the same time.

8 MS. AKARD: It wouldn't have mattered if we did
9 -- if we'd done it ten days and it's not just about
10 this event either. Because it wouldn't have been
11 available. Because it's not just about this event,
12 it's about all events. And it's not just about this
13 one that's coming up. So whether we had done it ten
14 days or whatever -- and I don't really think that
15 it's just about the liability. And there is viable
16 education that's out there for the students and it's
17 not just about product. And there is a way for you
18 to monitor your students. And I think that to not
19 give any notice is -- is not right. It's not right.

20 MR. KEENE: Dawn?

21 MS. CREEKMORE: In light of the fact that -- it
22 seems to me that it's all interpretation where these
23 hours -- where these 1500 hours come from. 17-26-304
24 -- and I'm sorry. I don't know your name.

25 MR. JOCHUMS: Arnie.

1 MS. CREEKMORE: He kind of sort of agreed it was
2 interpretation. It is not a law as I previously led
3 to believe that it was a current law passed many,
4 many years ago that a student's 1500 hours could
5 include outside hours. I don't really like calling
6 them extracurricular hours because extracurricular
7 doesn't always mean the course of study. These hours
8 that we're referring to has to do with the course
9 that they're taking. It is in direct reference to
10 cosmetology or whatever it is they're taking. This
11 interpretation, if it is an interpretation, should be
12 made on a case to case basis. If what you're saying
13 is true, you were just up there on stage to make a
14 buck, that's fine but a lot of these shows that's not
15 the case. They -- the student actually goes into a
16 class. They're only allowed 20, 30, 40 people per
17 class. They are given one-on-one -- or not one-on-
18 one instruction, but instruction from a professional.
19 And these hours should be allowed to be accepted if
20 approved.

21 MR. KEENE: If --

22 MS. CREEKMORE: And that's beside the liability.

23 MR. KEENE: If you're talking about the State
24 Beauty Supply Show that they have in Tulsa, Kansas
25 City, St. Louis, any of those shows. Those

1 classrooms are not limited to --

2 MS. CREEKMORE: No, I'm not talking about those.

3 MR. KEENE: -- how many people that they have in
4 there.

5 MS. CREEKMORE: Right.

6 MR. KEENE: The only shows I know of that they
7 limit a class size is the IBS show, the BBSI show --
8 those shows are in Chicago, New York, San Francisco,
9 L.A. -- none of the shows they have in Hot Springs
10 are that way. They don't limit class size. They
11 just don't. And they're there --

12 MS. CREEKMORE: Limiting class size --

13 MR. KEENE: -- to sell a product.

14 MS. CREEKMORE: -- really doesn't have anything
15 to do with it. It's --

16 MR. KEENE: And they're there to sell their
17 product. It wasn't just me.

18 MS. CREEKMORE: But I've sat in classes. I've
19 been in this business as everybody is here, a long
20 time. I've sat in classes where I have heard stuff
21 and Kathy and I were speaking -- you hear something
22 from your instructor over and over and over and the
23 student just sort of dazes over or hazes over. And
24 then you go to a class and there's someone of
25 importance standing up there talking about something

1 and they'll say something that the instructor said
2 many times over and that student will come away,
3 "Hey, guess what I learned today." And they do come
4 away -- I've come away with valued education.

5 MR. KEENE: Dawn, I didn't say not one time that
6 I didn't think that a hair show was good. I think
7 they're great. I encourage everyone to go. But we
8 still get back to a liability issue of taking a
9 student -- I don't care if you give them all the
10 hours you want in any of the subject matters if you
11 break it down and add that extra space on a document
12 and then put extracurricular or name it whatever you
13 want, it still comes down to a liability issue. And
14 we are being told, am I right, that if we condone
15 this and we put this in there that we are becoming
16 liable?

17 MR. JOCHUMS: I'm not sure. They'd have to sue
18 you and the Claims Commission and you're immune, so.

19 MS. CREEKMORE: But regardless of you're getting
20 -- they're going to give them hours are not. People
21 are going to sue. They're going to sue everybody
22 that has -- they're going to sue the person that made
23 the comb of the person that's showing the
24 demonstration. I mean they're going to sue everybody
25 anyway.

1 MR. KEENE: You had your hand up.

2 MS. DICKENSON: I'm lucky I've worked for --

3 MR. KEENE: Tell us who you are.

4 MS. DICKENSON: Nikki Dickenson. I'm from
5 Camden, Arkansas. And I work full-time as an
6 instructor, but I also work part-time for a
7 manufacturer as an educator. The classes that -- you
8 know we're moving on past a lot of sales and
9 everything that we are doing now is more technically
10 driven. It's important to us that our classes -- and
11 all of my classes are limited. I have one this
12 afternoon that I'm doing that was limited to twelve
13 students -- or not students, but individuals who
14 wanted to come to the class. But it is a cutting
15 technique class, you know, so in my area there's so
16 many opportunities. You know I do not only the
17 cutting but full placement as far as actually using,
18 you know, the techniques themselves to encourage the
19 growth in the business. You know, so saying that
20 we're all out there trying to sell product -- yeah,
21 it helps if the product sells, you know, for the
22 educators, but for us it's more about getting forth
23 the information. Passing on the stuff to these, you
24 know, individuals who want to be better in the
25 business. You know, so just saying that we're out

1 there trying to sell product, you know, that's not
2 really true. I mean we are the performing artist in
3 that aspect. I don't go in and do -- you have to buy
4 this product for this technique to work.

5 MR. KEENE: You as the person giving that class?

6 --

7 MS. DICKENSON: Right.

8 MR. KEENE: I agree with that.

9 MS. DICKENSON: Right.

10 MR. KEENE: I agree with that. If I didn't sell
11 a product that day, I still got paid. Didn't matter
12 to me --

13 MS. DICKENSON: Right.

14 MR. KEENE: -- that I sold the product. I
15 wanted to get the information across, but your
16 manufacturer does.

17 MS. DICKENSON: Oh, absolutely. I mean they
18 have to make the sales, but the educator --

19 MR. KEENE: You got it.

20 MS. DICKENSON: -- the classes that are being
21 held in our areas, what I'm trying to get across here
22 is, we're not the St. Louis show. We're not, you
23 know, in New York. The educators from this area are
24 more into the techniques. You know that is what is
25 important is getting forth, you know, going in with

1 these techniques and empowering these people to be
2 able to do them. To help us stay abreast of our
3 industry and what's changing and going on, so it's --

4 MR. KEENE: And I totally agree with you when --

5 MS. DICKENSON: -- you know it's good
6 information and it's --

7 MR. KEENE: -- it's up to the individual
8 instructor, I agree with you.

9 MS. DICKENSON: And you know it just -- it's
10 hard for the students and just like she said, you
11 know, I see both sides of the fence here because, you
12 know, I'm in both shoes. And these students that --
13 we only have them such a short period of time, it's
14 hard to get them excited about the business. But if
15 you take away that opportunity to say, you know, you
16 go to this class and you'll be able to get your
17 credit --

18 MR. KEENE: Nobody's taking anything away from
19 the student in eight hours --

20 MS. DICKENSON: -- no. But I mean you know you
21 have so many -- yeah, but you have so many that those
22 eight hours they're going to be like, no, because I
23 have to go to board in this month. You know, and
24 they're not going to get that opportunity because
25 they don't want to lose their hours for that day.

1 MR. KEENE: Veda, you had your hand up?

2 MS. TRAYLOR: I don't have a problem and
3 certainly schools are free to take those students at
4 their responsibility to whatever show they want, but
5 it does not say that we have to give them hours.

6 MR. KEENE: Linda, you raised your hand.

7 MS. LEE: I just wanted -- you know, we always
8 talk about -- Linda Lee. We always talk about trying
9 to get our education standards up. This is exactly -
10 - you're taking the first step to do that. I mean
11 how many of us would actually go to a show if we
12 didn't get paid or get hours?

13 MS. TURMAN: That's right.

14 MS. LEE: Those that are wanting to be educated
15 will go no matter what.

16 MS. TRAYLOR: That's right. Absolutely.

17 MS. LEE: And that's what we need to do. We
18 need -- and we need to just start with the schools
19 and if they want to go -- when my students come up
20 here, they don't get hours to come up here and watch
21 you guys do your job. You know, but we want them to
22 be exposed to you. We want them to be exposed to
23 what you do for a living and what they can do on --
24 in the future. If you put -- tack hours and money
25 and rewards our education is just down the tubes.

1 It's always just I get this, if you give me this.
2 And that's where our education has to be improved. I
3 mean there's nothing that says that we, as
4 cosmetologists, can't be educated people. You know,
5 but why do we always have to tack a salary. My staff
6 will -- you know and we're just as guilty as anybody
7 else. Am I going to get paid if I go? No, you're
8 not going to get paid. Please come anyway. So you
9 know that's where we need to start. And it starts
10 with the educators in the schools. And if we don't
11 just keep bribing them to go to education, you know,
12 it's going to be -- they're our future. I want to
13 retire someday. You know, but if they keep thinking
14 they're going to get paid on allowance to go and
15 learn something, we've got a problem. And it needs
16 to start within the schools.

17 BOARD MEMBER: Right.

18 MS. STRAWN: Chris Strawn, again. I was
19 wondering, you say the big deal is the
20 responsibility. You don't want the liability. Are
21 you liable for our students as they're in our class -
22 - in our classrooms?

23 MR. KEENE: I don't know. I'd have to defer to
24 the attorney.

25 MS. STRAWN: I don't think you are. And I don't

1 think that you would be liable for that part of their
2 education. It would be if we sent in, I think saying
3 this student is going and this is the instructor, I
4 think that takes your liability away. I would think.
5 I don't think that you would be any more liable for
6 that student being hurt in a situation off-campus
7 than you would on-campus. And another thing, I
8 really don't have a problem with y'all saying no more
9 extracurricular activities. We just -- I just know
10 of two school owners and then all the school people
11 that are members of the School Owners Association, we
12 -- right now, some people are at a show at -- they're
13 somewhere, okay? Well, there's a Broder Brothers
14 from here, too, but there's one out of state that
15 some people bought tickets for. These students -- I
16 understand them not, you know, I don't always offer -
17 - I don't always offer hours, you know. Sometimes I
18 can't because I didn't know soon enough. I didn't
19 know for ten days in advance And you know I totally
20 agree with raising the standards and everything, but
21 I don't see how giving a student -- hours to a
22 student is like pay to us or more. I mean this is
23 the way they're going to make -- or this is the way
24 they're going to make their living. And as soon as
25 they can get out and become tax paying citizens,

1 that's what we want them to do. And in addition, I
2 think that the shows or classes that we go to -- it
3 gives them a real-world idea of what it's really
4 like. You know, our schools, we do the best we can,
5 okay? But they get a better idea of who's out there,
6 who they're peers are. They can network. I just
7 think that -- and if the 16 hours, I don't think that
8 every single -- I don't think you should be able to
9 approve 1500 hours outside the school. But I think
10 setting a limit, like I thought it was 16 hours.

11 MR. KEENE: Thirty hours.

12 MS. STRAWN: Well, I thought it was 16. I may
13 have thought it was 16, see, so. But it was 30?
14 Well, okay, well, but I think there needs to be a
15 limit than just blanketly saying, you know, we're not
16 going to allow extracurricular activities to count as
17 hours out of school I think is unfair to the student.
18 And they're our first consumer. You know the student
19 is my first consumer, not the four dollar haircut
20 that comes in.

21 MR. KEENE: Pat.

22 MS. TURMAN: I think what the board is saying
23 it's your responsibility to teach your students, not
24 to take them to classes where somebody is going to
25 paid -- selling a product to that student. I think

1 that's what I'm saying as part of this board. It's
2 your responsibility to make sure that the student
3 gets that 1500 hours, not some product salesman.

4 MS. GULLEY: I'm Brenda Gulley. And I do think
5 the continuing ed's great. I think -- I limit mine
6 to where they go or what they do, but I do think the
7 education part of it is good. I think it's good for
8 them. And I think the Hot Springs show is like the
9 Student Appreciation. So I've got mine all geared up
10 to go because it's close and I think it's a good
11 appreciation for them. And I think it's a good deal,
12 but I mean I've already promised all of them time. I
13 don't know that it can just be cut. I guess it's
14 already been cut, but I would think since we're
15 already kind of half way promised them pretty much
16 hours that we should be able to give hours, at least
17 for that one and then the one in Tulsa or where ever
18 it was that people's already paid their money.

19 MR. KEENE: Let me ask you something. This show
20 that's going on in Hot Springs -- because all I've
21 seen is a flyer on it. I don't know anything about
22 this. Who's putting that show on?

23 AUDIENCE MEMBERS: The owners. School owners.
24 School Owners Association.

25 MR. KEENE: School Owners Association? Is there

1 a fee to these students for them coming to this?

2 MS. AKARD: No.

3 MR. KEENE: No. It's free of charge?

4 MS. AKARD: Yes.

5 MR. KEENE: So where is the money coming from to
6 support that program?

7 MS. CREEKMORE: I --

8 MR. KEENE: You're paying for it?

9 MS. CREEKMORE: I was just --

10 MR. KEENE: Oh.

11 (Chorus of laughter.)

12 MS. CREEKMORE: The Association.

13 MR. KEENE: The School Owners Association is
14 paying for it?

15 MS. STRAWN: And vendors.

16 MS. CREEKMORE: Oh.

17 MR. KEENE: And then -- oh, vendors.

18 MS. GULLEY: Well, I know that they've already
19 worked real hard on it and I just feel like --

20 MR. KEENE: Who are your -- excuse me, but who
21 are your vendors?

22 MS. AKARD: At this particular time the School
23 Association has put out all the money.

24 MS. CREEKMORE: Uh-huh.

25 MS. AKARD: And our vendors are Regis. It is

1 the Regis, J.C. Penney's -- those are the vendors
2 that are paying or the employers that are paying for
3 it.

4 MR. KEENE: And --

5 MS. AKARD: And none of the manufacturers pay
6 for it. All of them are coming into the classroom
7 and are doing that carte blanche. So the people that
8 are paying for it are J.C. Penney's and Regis.

9 MR. KEENE: Are they going to be selling -- are
10 these vendors going to be selling retail products
11 there?

12 MS. AKARD: If they so choose.

13 MR. KEENE: So they're not actually paying rent
14 space, but they're hoping to sell their products so
15 that --

16 MS. AKARD: If they so choose. They do realize
17 that it's students and the possibility of selling to
18 students is pretty much nil.

19 MS. CREEKMORE: And I would like to say we -- I
20 have a lesson plan, not with me, but the students are
21 going to be in classes so frequently. And they only
22 have small time allotments outside classroom
23 settings.

24 MS. AKARD: It will also be monitored. And it
25 is a job fair for the students, as well.

1 MR. KEENE: That's because you're having the
2 chain salons there. That's where the job fair is
3 coming from?

4 MS. AKARD: Yes, we are.

5 MS. STRAWN: We are also having salons, like
6 Alexander. He's not a chain salon. He'll be there
7 as a prospective employer.

8 MR. KEENE: Is he going to be there as a
9 presenter or --

10 MS. STRAWN: He'll have both.

11 MR. KEENE: Because I know that he works for a
12 manufacturer.

13 MS. STRAWN: He owns a manufacturer. He owns
14 Rock-on. And he's going to have people there running
15 that and he will have a booth for his salon to -- as
16 a possible for a job.

17 MR. KEENE: Sherron, you had your hand up?

18 MS. WEST: Yes. Could I make a comment at this
19 time? I feel like for the board to restrict this
20 all, you know, at once might be presumptive, even
21 though we are the board. That we -- these
22 commitments shouldn't, you know, that they have made
23 to their students prior to coming -- we can say one
24 month or two months from now. We should go ahead and
25 let these school owners have the shows or participate

1 in the shows that are on their books right now, up
2 to, you know, a month or two months. Something along
3 that line, simply because to just come in and, you
4 know, say well, you've always done it, they said that
5 they assumed that it was okay. I don't remember
6 ever, you know, telling everybody they couldn't do
7 this. This is the first I've heard of it. But it
8 you have, I apologize because I missed it. I'm just
9 thinking that on this -- on the current books that it
10 might be good to say, you know, that they go ahead
11 and do this and then, you know, after this they're
12 restricted.

13 MR. KEENE: Well -- thank you. Because I'm --
14 I've been waffling here a little bit. I still want
15 to make sure. I want Arnie to find out for us
16 whether or not we could be held liable if something
17 were to happen to these people. That's my number one
18 concern. I don't want anyone to not go to shows. If
19 the only way you can get your student there is to
20 give them hours, that doesn't say much to me for a
21 student. The only way you can get a hairdresser to
22 go to an educational program is based on they're
23 going to receive continuing ed hours, I think is
24 pretty lame, too. But -- which is I think one reason
25 why we don't require continuing ed in this state for

1 hairstylists. I have a real issue with your vendors
2 selling their products there. Don't have a problem
3 with them being there and doing the education, but if
4 they have retail booths set up I have a problem with
5 that. Because it plainly says in your continuing ed
6 for your instructors that this can't be about
7 product. So that right there would tell me, as an
8 instructor, I bet if I want to do anything extra it
9 better not be around product because you're school --
10 you already know that that's a feeling of the board
11 when it comes to any kind of extra education. I
12 would like to -- I'd be real curious to how many of
13 your vendors would drop out if they weren't able to
14 sell their products there. We won't know that unless
15 you told them that they couldn't. I know when I
16 worked for a manufacturer I went to many schools and
17 gave education. And some of it would be on product.
18 I admit and I'm talking hairspray and shampoo, not
19 just hair color, permanent wave, or a haircut
20 technique, which I did on all of those. The
21 guideline has always been that the director approved
22 any kind of extracurricular activity. And I don't
23 know just what made this one so much different right
24 off the top of my head, other than it looking so much
25 like a hair show that dealt with products, because

1 that's what it looks like to me.

2 MS. WITTUM: If I can say something.

3 MR. KEENE: Okay.

4 MS. WITTUM: This was the first one that came
5 across my desk as director, to approve. So when I
6 got it and started asking, "What is the
7 extracurricular activities policy", because I had no
8 knowledge of it, we had trouble even finding a copy
9 of that policy. That was my first red flag. If it's
10 a policy that is honored by this board it should be
11 right in line with the statute and the regulations.
12 It should be right there available for us to follow
13 and for us to disseminate to the public so that they
14 can follow it. When we finally did find it and I
15 started reading it and researching the law and the
16 rules and regulations, I started formulating my
17 opinion as to whether or not this policy should
18 actually be in existence. Then when I started asking
19 questions about it, I'm sure all of you have seen at
20 least part of the tone of the board, is that they're
21 not in favor of it. That's the reason why everything
22 got suspended and I refused to approve anything,
23 because I'm not going to do anything that I believe
24 is illegal, immoral, unethical, or against the
25 board's regulations. If the board wants to continue

1 this policy, if they want it to put it into rule
2 form, if they want to make it an official part of
3 what the staff will honor, then this is where we need
4 to figure it out and get it in place. But I am not
5 going to take that risk or that responsibility to
6 tell you that you can go and do and something that I
7 know at least some of the board members are telling
8 me they don't approve of.

9 MR. KEENE: Which is why we're here.

10 MS. WITTUM: Which is why we're here. I read in
11 the extracurricular polices after we located it about
12 the product and stuff and I know that it's also in
13 that continuing ed that doesn't have anything to do
14 with this because that's for instructors anyway, but
15 that was none of my concern whatsoever. I don't know
16 anything about the hair shows that you take your
17 students to. I don't know anything about your
18 curriculum or your way of teaching your students at
19 this point, that's all stuff that I'm still learning.
20 But if I can't identify a statute or a rule that says
21 we can do this, I'm going to have a problem with it
22 until the board directs me otherwise.

23 MR. KEENE: So I'm kind of agreeing with Sherron
24 right at the moment, because it was kind of thrown in
25 here for now, as an appearance, just under ten day

1 according to your requirement that obviously people
2 went and did before the ten day, but it sounds like
3 it that was a practice that people got in the habit
4 of doing, which is why it happened this time. Do you
5 have any -- have there been any other programs come
6 before you since this one?

7 MS. WITTUM: This one and the one in Tulsa.

8 MR. KEENE: For approval? And the one in Tulsa.

9 MS. WITTUM: I think the one in Tulsa is
10 actually later this month.

11 MR. KEENE: I think the board may want to --
12 y'all are going to be the one making the motion, not
13 me, thank God. I would be in favor of approving this
14 one and the one in Tulsa and let's look at our
15 requirements here of what extracurricular is. Let
16 Arnie find out about our liability. But I -- that's
17 -- go ahead, Jane.

18 MS. POWELL: Well, I'll just take a spin-off of
19 what you were saying. I think that our director has
20 researched this extensively. I think that our
21 attorney has had ample time to research this issue
22 and has done so. I find it personally hard, knowing
23 the situation of where we've come from and what we've
24 been dealing with the last two or three years,
25 myself, I find it impossible for me to ask my

1 director to make an exception when it is not in the
2 law. And she knows the law and she knows the rules.

3 MR. KEENE: Is that a motion? Would you like to
4 put that in the from of a motion --

5 MS. POWELL: That's fine --

6 MR. KEENE: -- to approve or disapprove this?

7 MS. TURMAN: I second.

8 MR. KEENE: I need you to state it for the court
9 reporter.

10 MS. POWELL: I do not think at this time that
11 continuing ed or extracurricular activity hours --
12 students should be given hours for -- or the policy
13 that has been in the office should be recognized at
14 this time until law is made.

15 MR. KEENE: A second by Patricia. Any
16 discussion? Brenda?

17 MS. GRAY: On what Sherron said, this is fine
18 and the law states and we're to follow the law. But
19 I'm looking at the fact that it has been something
20 that has been done for so long that notification to
21 the school owners, to these individuals just letting
22 them know that this will take effect in two months or
23 whatever or -- that this will no longer be accepted
24 as far as giving continuing education hours because
25 the law states this. Because it was an assumption

1 that everything was as it has been in the past and
2 what we've been doing all along is granting
3 continuing education hours. It's something that has
4 been brought to our attention. We see and we know
5 what our faults are and now we're trying to correct
6 it, but people need to be -- just like notifying
7 people that this is no longer going to be and so no
8 one can go out and say, "Well, I didn't know." Well,
9 they didn't know until now that it -- that they can't
10 do it, because it's been in effect all of these
11 years. So just a notification and giving a timeline
12 as to when it would take effect and we'll go by the
13 proper procedures on how we handle this.

14 MR. KEENE: Then -- if we -- Veda.

15 MS. TRAYLOR: I understand is what the policy
16 has been is that you determine who your monitors are
17 and they have to be approved in the office, who your
18 monitors are going to be. And then the monitors are
19 held responsible that those students are in that
20 class and they're signed in and out. The monitors
21 are the responsible people.

22 MR. KEENE: Let's not confuse continuing
23 education with extracurricular hours.

24 MS. TRAYLOR: Well, I know but you -- I think it
25 says that. That you've got to have monitors.

1 MS. POWELL: I'll speak my last time on this. I
2 do agree that Brenda's approach is a kinder, gentler
3 approach. Although I'm concerned with the board has
4 to take that approach on every issue that this new
5 director is going to have to be confronted with.
6 This is just one of many things that we have office
7 policy and rule and law, that there is a difference
8 in. It's sort of like, you know, cleaning up someone
9 else's house here. And that's my concern is to
10 continuously put her in this position. It's one
11 she's been put in over these two issues today and I'm
12 certain there are going to be more to come. And how
13 many times do you feel that it would be fair to
14 continuously put her in a position of compromise
15 because someone else did it wrong before? And it was
16 done wrong before if it was not put in law or in
17 rule. And it was not. You can't -- I don't believe
18 in making these in-house policies and then expecting
19 -- and I didn't when I came on board. I didn't know
20 all of those office policies, remember, we asked for
21 documentation. Please give us forms. Give us what
22 you're telling these people. Give us the information
23 you're telling them because we're feeling really a
24 lot of heat and a lot of the burden here trying to
25 rule on these things that have little notes all over

1 the office. That's not fair to put the director in
2 the hot-seat over that and how many times are we
3 going to do that? So when we make an exception as a
4 board I think we, as a board, need to make an
5 exception how times, decide how many times.

6 MR. KEENE: And Jane, you bringing up the fact
7 that we've asked for various documents. I remember
8 making a request for Mr. Taylor and Linda Davis for
9 every document that office used. Because I would get
10 at a board meeting and find out there's this document
11 and that document and have never seen them. Still
12 this is the first time today that I've ever seen this
13 particular document, so how many more does the office
14 have that we don't know about? There's a motion on
15 the floor from Jane and Pat seconded. Do you want to
16 vote on that motion? If it fails and you want to
17 make a different motion --

18 MS. WEST: I have one more comment.

19 MR. KEENE: Okay.

20 MS. WEST: And that is I understand what Jane is
21 saying. But I am saying that we need to operate in
22 good faith. And I don't feel that this is in good
23 faith to our school owners. It doesn't matter what
24 happened, you know -- it does matter what's happened
25 before. But what we're saying is okay, you know,

1 we're telling you to cut it off now. And that is not
2 in good faith, in my opinion.

3 MR. KEENE: Okay. All in favor of the motion?

4 (Vote by show of hands.)

5 MR. KEENE: Six in favor. All opposed?

6 (Vote by show of hands.)

7 MR. KEENE: Two opposed. Motion carried. And
8 Dawn, if you can come up with something to try to --

9 MS. CREEKMORE: I was just wanting you to look
10 into it. I was just requesting you to -- for future
11 to look at it.

12 (Multiple discussions in background.)

13 MS. CREEKMORE: I agree with you. I'm for the
14 law. I mean the law needs to be followed. I
15 disagree that -- it hadn't been done correctly in so
16 long. And I personally feel that in my own -- my
17 case only, I can't speak for anybody else, but this
18 only hurts my students. And because I'm open on
19 Monday and they're not going to be willing to lose
20 hours at school, because most of my students take
21 public transportation to school in downtown Little
22 Rock, and they're not going to be -- I was going to
23 get them to the show, so anyway. I've had them all
24 hyped up to go to this show and now I get to go back
25 and say, sorry, because you're not going to get hours

1 for it. I don't mean to sound petty and say that
2 they were only going for the hours, but it was
3 certainly a motivator because they have to find
4 sitters because it was for an extended time before
5 and after school. And I think the student is the one
6 that loses out on this. And I would like to come to
7 some kind of, you know, all I'm asking I guess is for
8 you as a board to look into it for the future.

9 MS. WEST: Point of order. We had a vote
10 concerning schools and we had two school board
11 members on our board, who I think should excluded
12 themselves.

13 MR. DOWNEY: That's true.

14 MS. POWELL: Okay.

15 (Discussion ensues.)

16 MS. POWELL: Then I move to rescind my vote.

17 MR. KEENE: Well, I don't know that we can do
18 that, but a new motion could be made certainly.

19 MR. JOCHUMS: I don't think in this case they
20 actually had to recuse. It's not about competition
21 of schools and while they're in the minority of
22 school owners, I think they're the ones --

23 MS. POWELL: We represent the school owners.

24 MR. JOCHUMS: So I don't think it was improper
25 to vote on this case.

1 MS. TURMAN: I'd just like to say something. I
2 certainly respect the school owners. What we have to
3 go by is what the law says and the 1500 hours need to
4 come from them. They worked hard. I understand all
5 that and I have nothing -- not anything against the
6 school owners. All we have to do is what is right.
7 It's what we have to do.

8 MR. KEENE: I'm going to adjourn for --

9 MR. JOCHUMS: Maybe what we ought to do is, this
10 really wasn't part of the regulation -- this
11 particular issue. And I think you've heard about
12 everything else. It might be good -- you want to
13 think about lunch, I'm not sure. Since these people
14 are all here, if the board feels inclined to adopt
15 these as they now exist that would probably be better
16 to take that motion before we lose our audience as
17 opposed to afterwards. I didn't hear anybody object
18 to any part of the regulation per se other than the
19 young lady that thought we had the wrong number of
20 nail hours. Maybe the board needs to discuss it some
21 more --

22 MR. KEENE: Adopting the changes that we've made
23 in the rules and regs or --

24 MR. JOCHUMS: I'm talking about rules and regs.

25 And in relation to the other issues, we're not -

1 - we're going to look at them in the future, but not
2 today.

3 MR. KEENE: Right. So are there any other
4 comments about any of the changes that we've made to
5 the rules and regs? So then do we want to make a
6 motion that we --

7 MR. JOCHUMS: I think that we have maybe one or
8 two minor pencil changes that we wish to have Kathy
9 remind us of what they were. Somebody pointed out
10 that we have the wrong word in that three-year issue.

11 MR. KEENE: Yeah.

12 MR. JOCHUMS: And there was some language that
13 we added somewhere.

14 MS. WITTUM: We added language under Rule 6-7,
15 registration requirements to have the two years of
16 high school or it's equivalency be based on the state
17 standards.

18 MR. KEENE: And the other one was your change in
19 the verbiage on -- application for the exam?

20 MR. JOCHUMS: Three --

21 MS. WITTUM: Under -- it would be 3-2,
22 application deadlines that they must apply and pass
23 within three years in order for the hours to remain
24 accredited.

25 MR. JOCHUMS: Was there one other?

1 MS. WITTUM: Let me find it. It's on page 7.

2 MR. KEENE: Completion date and application
3 date. Okay. Is that it?

4 MR. JOCHUMS: I don't remember any others.

5 MR. KEENE: So do we want a motion to approve
6 those changes and --

7 MS. TRAYLOR: I so move.

8 MR. KEENE: Veda moves to accept the changes to
9 the rules. And --

10 MR. DOWNEY: I second it.

11 MR. KEENE: And Nick has seconded it. Any
12 discussion?

13 (No response.)

14 MR. KEENE: All in favor?

15 (Vote by show of hands.)

16 MR. KEENE: Unanimous. Okay. We're going to
17 adjourn until one o'clock. About forty minutes from
18 now.

19 (A break was taken for lunch.)

20 MR. KEENE: I call the meeting back to order.
21 It's 1:13. Kathy?

22 MS. WITTUM: I would like to just say thank you
23 to the school owners for providing the fine lunch.
24 That was wonderful. And I really appreciate it. I
25 know the board --

1 (Applause.)

2 MR. KEENE: I'll -- at this time I'll turn the -
3 -

4 MR. JOCHUMS: Before we do that -- I mentioned
5 to you that little more we need to do to amendments
6 to the Rules. Well, let me just back up and explain.
7 If we don't do anything else, the process will be
8 that Kathy will be on the agenda of the Legislative
9 Rules Committee for either October or November,
10 whenever they can get her on it. It may be too late
11 for October, I'm not sure what their agenda deadline
12 is. They will review it and announce it has been
13 reviewed, after which time another step of putting
14 the final Rule together and carrying it to the
15 Secretary of State's Office and several other places.
16 It then goes into effect ten days later, unless the
17 Board specifies a later effective date. So we -- you
18 all know that we want this to go into effect
19 beginning December, ending of January, or some date
20 you need to make that decision. And I can see
21 various reasons why it might be good to have a
22 controlled date. We want it to start at the
23 beginning of license period or something. To get
24 plenty of time to get the whole industry apprised of
25 the new format, but that's just a suggestion.

1 Otherwise it will go into effect under that scenario
2 I've laid out. So if the board has a preference on
3 that maybe staff would like to address it. If you
4 have a preference you might want to bring that up
5 now.

6 MS. WITTUM: I'm just wondering if maybe the
7 first of the year would work because all of the
8 licenses that are currently current are due to expire
9 December 31. That would allow us to get through the
10 process over there and to get copies out to people or
11 to at least notify people that they're available on
12 the website so that they can become familiar with the
13 exactly what the new Rules and regulations say.

14 MR. KEENE: I remember discussing that of when
15 we should probably start these. And yeah, our
16 licenses expire December 31, but they actually have
17 until January 31 to renew. So I would recommend
18 February 1 be the earliest even if, you know a little
19 later if possible.

20 MR. DOWNEY: It could go out in the newsletter
21 that normally is sent out -- are we going to do a
22 newsletter?

23 MS. WITTUM: I'm working on that now and it will
24 say that we're in the process of updating those rules
25 and regulations. They probably would want -- I know

1 if I were a practitioner or a salon owner I would
2 want to know that I could look at the final version
3 and know exactly what I'm going to be required to
4 abide by. So having a later date would probably be
5 more --

6 MR. DOWNEY: But I mean a notification in that
7 newsletter that some changes are coming up.

8 MS. WITTUM: Yes, definitely.

9 MR. KEENE: Well, in the last newsletter I
10 notified them in my little correspondence that I put
11 in there that there would be changes. Of course it
12 has been published since this public hearing, so the
13 word is out there. Individual salons may not know
14 but putting it in -- when do you plan on that
15 newsletter going out?

16 MS. WITTUM: Well, I have been told to wait
17 until after this meeting today because the new
18 officers would be elected. So I'm just waiting for
19 this meeting to be over with. But I expect the
20 newsletter will be going out by the end of the month.

21 MR. KEENE: Middle of October.

22 MR. JOCHUMS: Does anyone have a preference on a
23 date?

24 MR. DOWNEY: I'd say through renewal.

25 MR. KEENE: February 1?

1 MR. JOCHUMS: (Inaudible.)

2 MR. KEENE: Make a motion?

3 MR. DOWNEY: I make a motion that the new rules
4 and regs come into fruition on the 1st of February.

5 MS. MCKINNEY: Second.

6 MS. GORDON: Second.

7 MR. KEENE: Second by LaJoy and Mitzie.

8 MR. JOCHUMS: Oh. --

9 MR. KEENE: Okay. Now, Linda was wanting to
10 address the board. She was the last thing I had on
11 my agenda, so before we start our hearings.

12 MS. GORDON: Are we going to vote?

13 MR. DOWNEY: Don't we need to vote?

14 MR. KEENE: Oh, we should vote.

15 MR. JOCHUMS: Good call.

16 MR. KEENE: Okay. We have a motion and a
17 second. All in favor?

18 (Vote by show of hands.)

19 MR. KEENE: It's unanimous? Okay. Linda.

20 MS. LEE: I just wanted to say something about
21 the continuing ed that we have coming up. We've been
22 required by the documentation sent to the school --
23 or I represent -- Linda Lee, representing AACE, which
24 is Arkansas Alliance of Cosmetology Education. We
25 were sent a notification that we needed to send all

1 information about our continuing ed to every
2 instructor in the state of Arkansas. And I've
3 requested the list twice and I still get -- I'm not
4 even on this list. And there's a hundred and fifty
5 names missing. So I only have a hundred and fifty
6 here and I understand there's over three hundred
7 instructors, is that correct?

8 MS. WITTUM: I believe on the website it does
9 have over three hundred instructors, so --

10 MS. LEE: Okay. So how will I get a complete
11 list so that I can be in compliance with sending
12 everybody -- sure as the world if I miss somebody --
13 I mean, there's several people that I know for a fact
14 are not on here. And I've asked even before the
15 change over of the new regime. It's coming. It's
16 coming. The new computers are coming and I started
17 last year trying to get a complete list, so is there
18 a way I can get there license printed, actually being
19 licensed?

20 MS. WITTUM: Have I sent you a copy of --

21 MS. LEE: No, I just got up here this morning.

22 MS. WITTUM: Okay.

23 MS. LEE: And still there's a hundred and fifty
24 missing.

25 MS. WITTUM: I know that Foxpro has a lot of

1 problems which is which is what our computers are
2 currently working in. The only way for us to
3 generate those addresses is through that computerized
4 version, so if it's not pulling everyone --

5 MS. LEE: How do they get renewal? I mean,
6 surely you -- y'all don't send out notification
7 anymore, do ya?

8 MS. WITTUM: From what I understood from Linda
9 it's just that the computer is not recognizing all of
10 the instructors who are in the database when it's
11 trying to generate those labels. I can rerun the
12 labels and look to see if there's -- if you can
13 pinpoint anyone who's not in the list. I have seen
14 from the labels that it's duplicating people.

15 MS. LEE: Yes, there is a couple here that are
16 duplicated. And then mostly what -- the thing that
17 I'm more concerned about is getting the new people
18 and I don't see hardly any new people on here.

19 MS. WITTUM: Well, --

20 MS. LEE: And some of them are dead.

21 MS. WITTUM: Well, --

22 MS. LEE: I mean a lot of them are gone.

23 MR. DOWNEY: Is my name on that list?

24 MS. LEE: Yes. Nick is dead and he's still on
25 this list, okay.

1 MS. TRAYLOR: Am I on the bad list?

2 MS. LEE: Veda, you're on here three times.

3 MS. WITTUM: I will work on getting you an
4 updated list of instructors.

5 MS. LEE: And then my last request is can the
6 board entertain finding some money to have a four
7 hour update. I know y'all aren't having Raider
8 Training this year. And this is the first year in
9 four years that we haven't had four hours.

10 BOARD MEMBERS: We are.

11 MR. KEENE: Well, not this year.

12 MS. TRAYLOR: Well, yeah, just after the first
13 of the year.

14 MS. LEE: Okay. Will it be before January 30?
15 Because we're needing those four extra hours.

16 MS. WITTUM: The school overview happens at the
17 same time as the Raider Training --

18 MR. KEENE: If we opt to have it.

19 MS. WITTUM: Possibly not, it's not going to
20 occur but there is --

21 MS. LEE: Is there any way where --

22 MS. WITTUM: But we could have a school overview
23 without doing the Raider Training.

24 MS. LEE: Could we do that? How do we go about
25 requesting that?

1 MS. WITTUM: I just have to start working on it.

2 MS. LEE: Do we want it -- I'll put it in
3 writing and that way it will be --

4 MS. WITTUM: Okay.

5 MS. LEE: Because what's happening now is that
6 if the hours are not going to be counted for the
7 students, they were supposed to have a four hour
8 program in October for this particular thing to get
9 the instructors that need twelve hours an extra four
10 hours, but there was a charge, but you guys don't
11 charge and that was one of the main reasons we got
12 started because we're trying to keep continuing ed at
13 an affordable price. And so you guys have four hours
14 at no charge and that's what we're trying to do is
15 get the education in as best we can without a big
16 expense. So I'll go ahead and put that in writing
17 and get it in.

18 MS. WITTUM: Okay.

19 MR. KEENE: So you were going by these four
20 hours and the four hours for if we do the --

21 MS. LEE: No, no. We'll have one January 8, but
22 if you're an accredited school you have to have
23 twelve hours instead of eight.

24 MR. KEENE: Oh, okay. I didn't know all that.

25 MS. LEE: Thank you.

1 MR. KEENE: Okay. We'll go into the hearings.
2 I'll turn it over to you and Kathy.

3 MR. JOCHUMS: We're here in the Matter of Thu
4 huong Nguyen. You're here with your attorney. If
5 you all will come up around this table and -- I'll
6 tell you what. Are there some other people here for
7 hearings as well? If everybody who's going to be a
8 witness, stand up and we'll swear everybody. That
9 includes inspectors.

10 (Court reporter swears in all witnesses.)

11 MR. JOCHUMS: Pat, why don't you just pull
12 yourself a chair down here and we'll get started.

13 MR. ACORN: Will the witness give testimony
14 right here? How do you all --

15 MR. JOCHUMS: Or the table. We're not really --

16 MR. ACORN: Shall I sit at the table? I'm
17 spread out. I'm sorry.

18 MR. JOCHUMS: Sure. Put your witness right in
19 there, too. As I was saying this is 05-184, In the
20 Matter of Thu huong Nguyen. I see that Mr. Brian
21 Acorn is here with a number of people. Would you
22 please introduce the people with you.

23 MR. ACORN: This is Stacy Alexander. Should I
24 stand when I speak to the board?

25 MR. JOCHUMS: No, no. That's fine.

1 MR. ACORN: This is Stacy Alexander with my
2 office. These are my clients. I'll let them
3 introduce themselves. Please tell the board your
4 name, sir.

5 MR. TRI: My name is Tri, T-R-I.

6 MS. NGUYEN: And my name is Thu huong Nguyen.

7 COURT REPORTER: You're going to have speak up
8 so that I can hear.

9 MR. ACORN: Yes, ma'am. Stand up, sir and tell
10 them your name.

11 MR. TRI: My name is Tri, T-R-I.

12 MR. ACORN: Your full name. Tell them your full
13 name.

14 MR. TRI: Middle name is Minh, M-I-N-H.

15 MR. ACORN: And your last name.

16 MR. TRI: And last name is L-E.

17 MR. JOCHUMS: Okay.

18 MR. ACORN: Stand up and tell them your name.

19 MS. NGUYEN: Full name is Thu huong Nguyen.

20 MR. ACORN: She's the actual listed respondent
21 if that helps.

22 MR. JOCHUMS: Okay. We have a name on here.
23 Sir, is that her name?

24 MR. ACORN: Yes.

25 MR. JOCHUMS: Okay. And she owns California

1 Nails?

2 MR. ACORN: This is your name, correct? She did
3 at the time of these allegations. It has since been
4 transferred to this gentleman's name.

5 MR. JOCHUMS: Okay. Members of the board, you
6 have the Notice of Hearing in front of you. The
7 witness today is Pat Bland. I'm not going to read
8 that to you or tell you essentially it has to do with
9 unlicensed practice or allowing unlicensed to
10 practice. And so unless anyone has a question I
11 think I'm going to start with Ms. Bland. Tell us
12 about this case. Are you familiar with the shop
13 called California Nails in Pine Bluff?

14 MS. BLAND: Yes, I am.

15 MR. JOCHUMS: Have you been there a number of
16 times?

17 MS. BLAND: Yes, sir, I have.

18 MR. JOCHUMS: And did you go there in March,
19 2005?

20 MS. BLAND: Yes, I did.

21 MR. JOCHUMS: And what did you notice that was
22 out of the ordinary on that particular visit?

23 MS. BLAND: On that particular visit I had
24 noticed that there were some new employees in the
25 salon. And on those occasions when we go to salons

1 and there's new employees we always identify so that
2 we will know when we go back, you know, those people.
3 And so that's what I had begun to do is ask for
4 identification on these -- on the persons that I
5 didn't recognize.

6 MR. JOCHUMS: And what did you learn as you
7 asked them for identification?

8 MS. BLAND: No identification was given to me.
9 One -- the person that I asked -- and in salons
10 licenses are posted normally at a station -- at their
11 station, whatever station you work at. So when we go
12 in if Nick Downey is working at that station his
13 license is supposed to be posted right there. So on
14 this occasion the license that was posted behind the
15 person I was asking for identification indicated that
16 that license behind them was their license. Now at
17 that point in time I asked for identification. We
18 accept photo identification. No identification was
19 given to me. As I recall the person really didn't
20 want to speak with me. I don't know if they couldn't
21 -- did not speak English very well. The owner tried
22 to interpret for me that I needed a birth date.
23 Couldn't give me identification and couldn't get a
24 birth date, to my recollection.

25 MR. JOCHUMS: Now when you say the owner is that

1 the gentleman sitting right next to you or the lady?

2 MS. BLAND: No, this young lady.

3 MR. JOCHUMS: The young lady?

4 MS. BLAND: Yes.

5 MR. JOCHUMS: Continue on.

6 MS. BLAND: Okay. And so when we don't get
7 identification, we ask for birth dates. And I took
8 that license and ask for date of birth. And the
9 person could not give me the date of birth. That's
10 why I believe we have a license confiscated that I
11 turned in.

12 MR. JOCHUMS: So at that point you took the
13 license?

14 MS. BLAND: Took the license and instructed the
15 -- Ms. Nguyen, that this person could not continue to
16 work on clients until I could see a license and see
17 if they were properly licensed from the state of
18 Arkansas. They did have a client at the time.

19 MR. JOCHUMS: Okay.

20 MS. BLAND: I think they were with a person
21 doing nails.

22 MR. JOCHUMS: And this person who you were
23 talking about taking a license behind this station
24 was working with a client?

25 MS. BLAND: Yes.

1 MR. JOCHUMS: And let me ask if you can identify
2 -- is that the March report that you made?

3 MS. BLAND: Yes, it is.

4 MR. JOCHUMS: And on top there's a pink license.
5 Is that the license you seized during that visit in
6 Pine Bluff?

7 MS. BLAND: That's correct. That's the one that
8 one.

9 MR. JOCHUMS: I'll add Exhibit 2 --

10 MR. ACORN: Just the license or the report?

11 MR. JOCHUMS: The whole -- the report and the
12 license.

13 MR. ACORN: Well, may I look at it first,
14 please?

15 (Exhibit 2, March 23, 2005 Inspection Report was
16 entered into evidence and marked to append.)

17 MR. JOCHUMS: Did anything else happen at that
18 March visit that you didn't report?

19 MS. BLAND: At that particular time, no. I know
20 that I just persistently asked for identification and
21 when I didn't get any I did tell Ms. Nguyen that, you
22 know, a person cannot licensed. That they were to
23 cease and desist and --

24 MR. JOCHUMS: And then did you have occasion
25 within a few weeks to go back?

1 MS. BLAND: Yes, I did.

2 MR. JOCHUMS: Tell us about that visit.

3 MS. BLAND: That was April 16 and I was in --
4 actually, in another salon and someone had alerted me
5 that California Nails was working the same person
6 that they had heard that I had told them not to let
7 work. So I swung back by there that day and sure
8 enough, they did have someone in there. Again, I
9 asked for license. I asked for identification. The
10 person identified them -- did not identify
11 themselves. I'm sorry. I couldn't get any
12 identification, any response. At that particular
13 point, I was asked to come to the back room and I was
14 offered some dollars to go away. And made like I --
15 make like I had not seen.

16 MR. JOCHUMS: Who was -- took you to the back
17 room?

18 MS. BLAND: Ms. Nguyen.

19 MR. ACORN: I'm sorry. The female sitting
20 beside me?

21 MS. BLAND: Yes.

22 MR. ACORN: Okay.

23 MR. JOCHUMS: Now was the person who was working
24 that particular day a female or a male, do you have
25 any notes on that?

1 MS. BLAND: I do not have my notes from that. I
2 don't have that inspection report, I'm sorry. I know
3 it's on my original inspection report, but I don't
4 have that.

5 MR. JOCHUMS: Okay. And did you take any
6 license on that particular day?

7 MS. BLAND: No, because no one indicated that
8 they were working as someone else. I just asked for
9 identification.

10 MR. JOCHUMS: Do you need to look at the
11 original? Counsel, do you have any objection to
12 that?

13 MR. ACORN: No, but I would like to --

14 MR. JOCHUMS: If you'd rather break it up in two
15 parts.

16 MR. ACORN: No, it's fine the way it is, sir.
17 If we can just review it right now.

18 MS. BLAND: On this -- this occasion, thank you
19 for letting me see this. This occasion, because it
20 has been several months ago, I asked for ID. They
21 wouldn't give me any. Second person, female, was
22 giving a pedicure. I also asked her for
23 identification. She would not give me any. She did
24 write her name down. And I wrote the name that she
25 wrote down for me on a piece of paper. I told them

1 both to cease and desist and also told the owner, Mr.
2 Le -- evidently, it had changed over at that time to
3 Mr. Le. Okay. Mr. Le was the one that asked me to
4 come to the back room. He offered me \$300.00 to go
5 away. I told him I could not talk to him and that he
6 could not have unlicensed people working for him.

7 MR. JOCHUMS: Did you write down the name of the
8 unlicensed person?

9 MS. BLAND: I wrote down the name of one that --
10 yes, that I asked to write down on a piece of paper.
11 It was Minh T. Nguyen. And that -- there was no
12 license in the salon under that name and they had no
13 identification as to if they were that person.

14 MR. JOCHUMS: Okay. Now, is the owner name Minh
15 T?

16 MS. BLAND: At --

17 MR. JOCHUMS: Or the former owner?

18 MS. BLAND: No, the owner was Thu huong Nguyen,
19 this lady right here. That was on my March visit.
20 Evidently, at my April visit it had changed ownership
21 to Mr. Le, is what I believe happened.

22 MR. JOCHUMS: Okay. Let's call that document
23 Exhibit 2 -- I mean, 3. And let me make the Order
24 and Notice of Hearing, Exhibit 1.

25 (Exhibit 1, Order and Notice of Hearing; and

1 Exhibit 3, April 16, 2005 Inspection Report were
2 entered into evidence and marked to append.)

3 MR. JOCHUMS: At this point I'm going to ask the
4 witness through their counsel to respond.

5 MR. ACORN: Ma'am, I'm going to hand you back
6 what I believe is now Exhibit No. 2; is that correct?
7 And let's talk about that for a second. Is that the
8 only document that you prepared when you went there
9 for your inspection?

10 MS. BLAND: I'm sorry, the only?

11 MR. ACORN: Is that the only document that you
12 would have prepared that reflects your inspection
13 notes from that date?

14 MS. BLAND: This document right here?

15 MR. ACORN: Yes, ma'am.

16 MS. BLAND: Yes, sir.

17 MR. ACORN: Okay. And would you have provided
18 either one of these individuals with a copy of that
19 at that time?

20 MS. BLAND: Yes, sir.

21 MR. ACORN: Okay. Let me hand you this. Let me
22 show it to the other attorney first. May I approach?
23 I'm sorry. I'm used to be real formal.

24 MR. JOCHUMS: We're a little less formal.

25 MR. ACORN: Thank you, sir. I'm going to hand

1 you this and for now I'll call it Respondent's
2 Exhibit No. 1. It consists of two pages and that
3 document bears your signature, doesn't it?

4 MS. BLAND: Yes, it does.

5 MR. ACORN: And it bears the same date as that
6 document dated 3-23-05; does it not?

7 MS. BLAND: Yes, sir. It does.

8 MR. ACORN: Okay. Show me -- let me put these
9 down side by side. And on here, on this document
10 that my clients provided me, you say where it says
11 "Inspection of facility allowed" -- "yes"; "Photo ID
12 presented, if required" -- "yes"; "Salon license --"

13 MS. BLAND: No, sir. N/A. It means --

14 MR. ACORN: Not applicable?

15 MS. BLAND: Yes, sir.

16 MR. ACORN: Okay. But not applicable. You
17 didn't mark it no, did you?

18 MS. BLAND: No.

19 MR. ACORN: Okay.

20 MS. BLAND: It didn't apply because I didn't get
21 any identification.

22 MR. ACORN: Okay. You say, "Sales license
23 current" -- you marked it "yes"; correct?

24 MS. BLAND: "Salon license current" -- sure
25 looks that way, yes, sir.

1 MR. ACORN: And then you mark "Practitioner
2 license current" -- you marked it "yes" too, don't
3 you?

4 MS. BLAND: Sure looks that way, yes, sir.

5 MR. ACORN: And "Practitioner has Arkansas
6 license" -- you marked it "yes" too, didn't you?

7 MS. BLAND: These are two different inspection
8 re -- inspection sheets. It's --

9 MR. ACORN: Oh, hold on. I'm sorry. From the
10 same date?

11 MS. BLAND: That's right.

12 MR. ACORN: From the same day?

13 MS. BLAND: Yes.

14 MR. ACORN: Is there any particular reason you
15 provided my clients with a copy of this and not a
16 copy of this?

17 MS. BLAND: I can explain that.

18 MR. ACORN: Well, I'd just like to know if
19 there's a reason, yes or no? I'm sorry. Someone
20 doesn't need to tell her to say yes. She can testify
21 on her own.

22 MS. BLAND: I sure can. What are you asking me?

23 MR. ACORN: Okay. You seem to seek prompts from
24 the crowd.

25 MS. BLAND: I'm sorry. I didn't hear --

1 MR. ACORN: Was there any particular reason why
2 you provided my clients with this document, which is
3 materially different from this document you have
4 provided to this board. Yes or no, is there a
5 reason?

6 MS. BLAND: Yes.

7 MR. ACORN: Okay. Well, let's go through it and
8 I'll let you tell why. Because you've got all kind
9 of writing --

10 MS. BLAND: Sure.

11 MR. ACORN: -- on this document, don't you?

12 MS. BLAND: Sure do.

13 MR. ACORN: And this document does not have any
14 of that writing, correct?

15 MS. BLAND: Sure don't -- (inaudible.)

16 MR. ACORN: And it's your standard practice and
17 procedure to provide the people that you inspect a
18 complete copy of your inspection report, isn't it?

19 MS. BLAND: Correct.

20 MR. ACORN: Okay. Where is the original of this
21 document that you would've kept that should be in
22 that file?

23 MS. BLAND: I would have to ask my office staff
24 that. I don't have any idea. I can -- I can pretty
25 much tell you what happened. Evidently, I went by

1 there twice that day because this is a totally
2 different inspection sheet. My pink sheets are still
3 attached to the back of this inspection sheet, which
4 I did not give. And most of the time when that
5 happens is because the person would not sign the
6 document.

7 MR. ACORN: So now you're telling this board
8 that you did not visit the facility -- not once, but
9 twice that day. And the first time you went there
10 everything was in order and everything was okay.

11 MS. BLAND: It could've very well have been.
12 They could've all had -- everyone had identification.

13 MR. ACORN: Okay.

14 MS. BLAND: Yes, I'm saying that it --

15 MR. ACORN: Okay.

16 MS. BLAND: -- could very well have been that
17 way.

18 MR. ACORN: And -- and then you went back a
19 second time is what you're now testifying before the
20 board --

21 MS. BLAND: I'm saying that that looks like what
22 has happened. I don't --

23 MR. ACORN: But you don't know?

24 MS. BLAND: Well, here are my pink inspection
25 sheets for this -- this right here.

1 MR. ACORN: Okay. Well, show me on here where
2 they signed this one. They didn't sign that one
3 either, did they, ma'am?

4 MS. BLAND: I think if you will look -- our
5 carbons are not real, real -- they don't come through
6 sometimes. I think if this was examined, yes, sir,
7 you would see that there is ink marks there.

8 MR. ACORN: Well, I've looked at it, ma'am. And
9 I ask that it speaks for itself, but it doesn't
10 appear -- because your "X" showed up just fine, did
11 it not?

12 MS. BLAND: It sure did.

13 MR. ACORN: Okay. But --

14 MS. BLAND: But I can't help how hard somebody
15 presses down.

16 MR. ACORN: But -- but you will agree with me
17 that these two documents are materially different?

18 MS. BLAND: They absolutely are. There's --

19 MR. ACORN: Okay.

20 MS. BLAND: -- two different inspection sheets.
21 These --

22 MR. ACORN: Okay. I'm going to move to have
23 this admitted as Respondent's Exhibit No. 1.

24 MS. BLAND: These inspection sheets are still
25 attached.

1 MR. ACORN: May I approach? Do I need to staple
2 them for you?

3 COURT REPORTER: No.

4 (Respondent's Exhibit No. 1 was entered into
5 evidence and marked to append.)

6 MR. ACORN: But at least at this visit
7 everything was in order?

8 MS. BLAND: Evidently so, yes, sir.

9 MR. ACORN: Okay. Let's talk about -- who did
10 you say you never did get a name from anybody that
11 might have been working there without a license; is
12 that right? On that visit?

13 MS. BLAND: On March 23?

14 MR. ACORN: Yes.

15 MS. BLAND: Before we go on if you all will read
16 my notes on this, I did go back to the salon. This
17 is my second visit and it says how long I waited in
18 the mall and watched for the person that was
19 practicing license -- practicing nails without a
20 license. It's all written right here.

21 MR. ACORN: But you still failed to provide a
22 copy of that to the salon owner?

23 MS. BLAND: They wouldn't sign it.

24 MR. ACORN: Just like they wouldn't sign this
25 one?

1 MS. BLAND: That's signed. If you'll pass the -

2 -

3 MR. ACORN: I have looked.

4 MS. BLAND: -- you'll see that it has been
5 signed.

6 MR. ACORN: Ma'am, I have looked.

7 MS. BLAND: Now, I'm sorry, sir. What was your
8 question?

9 MR. ACORN: Who was the individual there that
10 day on March 23 that did not have any identification?

11 MS. BLAND: I wouldn't have any idea.

12 MR. ACORN: You don't know?

13 MS. BLAND: They won't give it to me.

14 MR. ACORN: Okay.

15 MS. BLAND: I couldn't tell you who it was.

16 MR. ACORN: They couldn't or wouldn't give it to
17 you?

18 MS. BLAND: Would not.

19 MR. ACORN: Okay. You will admit that you, on
20 the occasions you've met with my client have had
21 somewhat of a language barrier haven't you?

22 MS. BLAND: Well, I wouldn't say so.

23 MR. ACORN: You wouldn't say so? You think you
24 can communicate with them and they understand?

25 MS. BLAND: Yes, sir.

1 MR. ACORN: Okay. How about the other people in
2 the salon? Do you always have good communication
3 with them?

4 MS. BLAND: No, I don't.

5 MR. ACORN: And who acts as an interpreter?

6 MS. BLAND: I don't know that anyone does.

7 MR. ACORN: Okay. So according to your notes,
8 you went back and the individual indicated to you
9 that was his license behind you, correct?

10 MS. BLAND: Yes.

11 MR. ACORN: And this is the license that you
12 took?

13 MS. BLAND: Yes, it is.

14 MR. ACORN: That being representative of what
15 you thought to be that man's license, correct? You
16 didn't know, but I'm making sure that that's what you
17 took.

18 MS. BLAND: Right. When someone says, "That's
19 my license" or they point to and I say, "Where is
20 your license?" If they point to that and indicate
21 that that is their license, then if they cannot
22 provide us with identification, we take that license
23 until they come to -- and they have to come to the
24 office and provide identification.

25 MR. ACORN: Okay. But that license that you

1 took is current, correct?

2 MS. BLAND: Oh, yes, it is.

3 MR. ACORN: It was current at the time, correct?

4 MS. BLAND: Yes, sir.

5 MR. ACORN: Let's move to your April 16 visit, I
6 believe it was. You were in another salon?

7 MS. BLAND: I do believe that was correct.

8 MR. ACORN: Okay. What was the name of that
9 salon?

10 MS. BLAND: I couldn't tell you.

11 MR. ACORN: Who provided you with the
12 information?

13 MS. BLAND: I couldn't tell you.

14 MR. ACORN: Is there a particular reason you
15 cannot tell me?

16 MS. BLAND: I don't remember.

17 MR. ACORN: You don't recall or you don't want
18 to answer?

19 MS. BLAND: No, sir. I do not recall. I have
20 about 220 salons in Pine Bluff. I couldn't tell you
21 exactly which one I was in at that particular time.

22 MR. ACORN: Okay. You walk in and you ask for
23 license and everything else of that nature, correct?
24 As a matter of fact, I'm going to hand you this. Let
25 me back up and hand you that. Do you recognize that?

1 MS. BLAND: It's a shop license.

2 MR. ACORN: And that was posted on that date,
3 correct?

4 MS. BLAND: On -- it was posted on March 23.

5 MR. ACORN: You signed it, right?

6 MS. BLAND: March 23.

7 MR. ACORN: Right. Okay. The date of your
8 first visit?

9 MS. BLAND: Yes, sir. Evidently.

10 MR. ACORN: Or your second visit? You went
11 there twice that day, right?

12 MS. BLAND: Well, it was only signed March 23.

13 MR. ACORN: Then you went back on April 16,
14 2005, correct?

15 MS. BLAND: Yes, sir.

16 MR. ACORN: And what day of the week was that?

17 MS. BLAND: Well, I'm sorry. I'd have to look
18 at the calendar.

19 MR. ACORN: If I told you it was a Saturday,
20 would you have any particular reason to disagree?

21 MS. BLAND: No, sir. I work on Saturday.

22 MR. ACORN: Okay. And you came in and you had -
23 - you observed a female; is that correct?

24 MS. BLAND: Do you have that --

25 MR. ACORN: No, it's still right here, ma'am.

1 They're both -- let me find it.

2 MS. BLAND: No, this is March. I need the
3 April.

4 MR. ACORN: This may be it right here, ma'am.
5 Yeah, that's it, right there. And you observed a
6 female there, correct?

7 MS. BLAND: My report says the same man that I
8 caught 3-23-05 was applying a set of nails to a
9 client.

10 MR. ACORN: And he wrote down his name for you.

11 MS. BLAND: When I handed a piece of paper -- I
12 believe there were two different people there, sir.
13 If I'm not mistaken --

14 MR. ACORN: And that's all I'm trying to
15 establish.

16 MS. BLAND: This person -- I don't know that
17 this person wrote this name, but I asked for
18 identification as my report indicates. He would not
19 give me any. This second person was a female. The
20 second person was female, was giving a pedicure. I
21 also asked her for ID. She wouldn't give me any.
22 And I had a piece of paper and that name was written
23 on the piece of paper, which was Mihn T. Nguyen. I
24 don't know what this man's name was.

25 MR. ACORN: Okay. This was the individual --

1 this was the name that was written down, correct?

2 MS. BLAND: Uhm --

3 MR. ACORN: No, that's not it. This is the
4 name, right here. That is the name that was written
5 down, correct?

6 MS. BLAND: Yes.

7 MR. ACORN: I'm going to move to have this
8 admitted as Respondent's Exhibit No. 2. May I
9 approach?

10 MR. JOCHUMS: May I see it?

11 MR. ACORN: I'm on my way, sir. With your
12 permission I'd like to hand the board members a copy.
13 Is that proper?

14 MR. JOCHUMS: Yes. No objection.

15 MR. ACORN: I have the original admitted. This
16 is the -- these are fax copies. I received the
17 original overnight mail and I just opened it today.

18 (Respondent's Exhibit No. 2 was entered into
19 evidence and marked to append.)

20 MR. ACORN: This female individual was wearing
21 shorts, wasn't she?

22 MS. BLAND: I don't recall, sir.

23 MR. ACORN: And she spoke no English, did she?

24 MS. BLAND: I don't recall that either, I'm
25 sorry.

1 MR. ACORN: Okay. Do you know if -- do you know
2 if they were in the process of attempting to sell
3 their business?

4 MS. BLAND: No, I don't.

5 MR. ACORN: Okay. So you would have never seen
6 this article?

7 MS. BLAND: No.

8 MR. ACORN: I'll move to make that -- and I'm on
9 my way with a copy, sir, -- to make that Respondent's
10 Exhibit No. 3, I believe I'm on.

11 MR. JOCHUMS: No objection.

12 (Respondent's Exhibit No. 3 was entered into
13 evidence and marked to append.)

14 MR. ACORN: And you -- let me just give you a
15 copy of it. You see that in front of you. I'll bet
16 you can't read it.

17 MS. BLAND: No.

18 MR. ACORN: But if I was to tell you it said,
19 "Strong Mall. Rent Cheap. Good Income." you
20 wouldn't have any reason to disagree with that, would
21 you? Would you?

22 MS. BLAND: I suppose not.

23 MR. ACORN: And I know I'm being unreasonable to
24 ask you to read it when I can't read it myself, but
25 so I'll --

1 MS. BLAND: I'm --

2 MR. ACORN: -- get somebody else to interpret
3 it. I'm going to hand you that, too. Does that
4 appear to be a copy of a phone book page?

5 MS. BLAND: It sure does.

6 MR. ACORN: And you would agree with me that the
7 phone numbers in there match up, do they not?

8 MS. BLAND: Yes, they do.

9 MR. ACORN: Okay. I would move then to make
10 this copy of the phone book document, Respondent's
11 Exhibit No. 4, indicating the phone numbers -- phone
12 number contained -- I'm sorry.

13 MR. JOCHUMS: The phone number of California
14 Nails, is that what you're saying?

15 MR. ACORN: Yes, sir.

16 MR. JOCHUMS: No objection. Is there a date on
17 this newspaper?

18 MR. ACORN: A year. It's a quarterly or
19 whatnot. I'm not sure. I will go through that with
20 my client. It's what I had intended to do. I'm
21 going to run out of these. I'll have to ask y'all to
22 look at them, but they're pretty self-explanatory.

23 MR. JOCHUMS: Okay.

24 MR. ACORN: Now, you also testified at the time
25 that you thought the license had turned over to Mr.

1 Nguyen; is that correct? Not Mr. Nguyen, Mr. Tri.

2 MS. BLAND: Mr. Le?

3 MR. ACORN: Mr. Le.

4 MR. TRI: Tri.

5 MR. ACORN: Mr. Tri. We'll get it right. I'm
6 sorry. They do go by first names in their culture,
7 so. That's a change for me as well when I look at
8 the name on the paper.

9 MS. BLAND: Evidently Mr. Le came into play here
10 somewhere and I have down here told the owner, Mr.
11 Le. So I don't know if the license was in the
12 process of being changed or if I was told that was
13 the owner. I don't know.

14 MR. ACORN: Well, you recognize that, correct?

15 MS. BLAND: Yes, sir.

16 MR. ACORN: And that would indicate to you that
17 that license did not come into play until July 9?

18 MS. BLAND: Fifth.

19 MR. ACORN: Fifth?

20 MS. BLAND: Yes, sir.

21 MR. ACORN: Of 2005, correct?

22 MS. BLAND: Uh -- that's what it says here.

23 MR. ACORN: So at the time that you visited in
24 April, Ms. Nguyen was still -- the facility was still
25 licensed in her name, correct?

1 MS. BLAND: It could very well have been and she
2 could have very well have told me that Mr. Le was now
3 the owner. I don't know. I wrote Mr. Le's name down
4 for --

5 MR. ACORN: Okay.

6 MS. BLAND: -- you know, I didn't pull it out of
7 the sky.

8 MR. ACORN: Okay. Now who was it you claimed
9 took you back to the back room?

10 MS. BLAND: My report says Mr. Le asked me to
11 come to the back.

12 MR. ACORN: Okay. So it was Mr. Le and not Ms.
13 Nguyen?

14 MS. BLAND: That's what my report says. My
15 report says Mr. Le asked me to go to the back room.

16 MR. ACORN: Okay. And you are employed by the
17 state of Arkansas, correct?

18 MS. BLAND: Yes, sir.

19 MR. ACORN: And it is a felony to attempt to
20 bribe a public official, correct?

21 MS. BLAND: Yes, sir.

22 MR. ACORN: Okay. At that time, did you take
23 the money from him?

24 MS. BLAND: Oh, absolutely not.

25 MR. ACORN: You didn't take it from him and save

1 it as evidence?

2 MS. BLAND: No, I did not.

3 MR. ACORN: Did you contact the local
4 prosecuting attorney's office?

5 MS. BLAND: No, I did not.

6 MR. ACORN: Did you contact the police
7 department?

8 MS. BLAND: No, I did not.

9 MR. ACORN: Sheriff's department?

10 MS. BLAND: No, I did not.

11 MR. ACORN: Any law enforcement agency, did you
12 contact?

13 MS. BLAND: No, I did not.

14 MR. ACORN: Okay. So you are claiming this man
15 possibly committed a felony. You are a state
16 employee, yet you failed to collect evidence. You
17 failed to report it to the proper agencies within
18 that county or otherwise do anything about seeking
19 prosecution in this matter, is that correct?

20 MS. BLAND: No, sir. That's not all correct.

21 MR. ACORN: Did you do any of those things that
22 I named?

23 MS. BLAND: No, sir. I did not.

24 MR. ACORN: Okay. Do you recognize him from
25 another salon?

1 MS. BLAND: I believe so.

2 MR. ACORN: Okay. And which salon is that?

3 MS. BLAND: I could not tell you.

4 MR. ACORN: Is it Happy Nails?

5 MS. BLAND: Could very well be.

6 MR. ACORN: Okay. Because on April 16, you had
7 a conversation with Mr. Le about that, didn't you?
8 Do you recall?

9 MS. BLAND: I don't.

10 MR. ACORN: Okay. You don't recall asking him
11 who his wife was?

12 MS. BLAND: No, I do not.

13 MR. ACORN: You don't recall asking him if he
14 had any connection to Happy Nails?

15 MS. BLAND: You know I --

16 MR. ACORN: Now you testified -- go ahead.

17 MS. BLAND: -- when I go into salons if I -- if
18 I think I know someone from another salon, I do say,
19 "Have I met you in another salon before?"

20 MR. ACORN: Okay.

21 MS. BLAND: That's not uncommon.

22 MR. ACORN: Okay. How about in August -- I
23 can't read your date, but you found no problems in
24 August, did you?

25 MS. BLAND: No.

1 MR. ACORN: Everything was in order and
2 everything was proper, correct?

3 MS. BLAND: Yes, sir.

4 MR. ACORN: Have you since been back -- do you
5 know the date of that report?

6 MS. BLAND: August -- sure don't. It must be --
7 I was just in -- I've been working Pine Bluff the
8 last couple of months, so it would have to be within
9 just a -- I couldn't tell you exactly which date it
10 was.

11 MR. ACORN: Okay. But sometime in August
12 according to that, correct?

13 MS. BLAND: Yes.

14 MR. ACORN: Okay. I'd move to make this
15 Respondent's Exhibit No. 5.

16 MR. JOCHUMS: No objection.

17 (Respondent's Exhibit No. 5 was entered into
18 evidence and marked to append.)

19 MR. ACORN: And again this is your inspection
20 report from sometime in August?

21 MS. BLAND: Yes, sir. I believe that one --

22 MR. ACORN: In which you found no violations of
23 any rule or regulation, correct?

24 MS. BLAND: That's correct.

25 MR. ACORN: Now I want to go back to the April

1 16th visit. Do you recall making statements to Mr.
2 Lee and Ms. Nguyen that you knew something was up,
3 that you knew that he had been shut down at Happy
4 Nails and that you needed to know who his wife was;
5 do you recall having conversation along those lines
6 with him?

7 MS. BLAND: Absolutely not. I wouldn't know
8 that he was --

9 MR. ACORN: But you do --

10 MS. BLAND: -- shut down. The only thing -- the
11 only way that I know that a salon is closed is when I
12 go by and there's not anyone there and the doors are
13 locked and the equipment is gone. And I make a
14 report that that salon is closed permanently --

15 MR. ACORN: I mean shut down by this Board. You
16 would know about that if you were the inspector,
17 wouldn't you?

18 MS. BLAND: Oh, I -- I would never mention
19 anything like that to a --

20 MR. ACORN: Even though you think --

21 MS. BLAND: -- to a owner.

22 MR. ACORN: -- you recognize him from another
23 salon, correct?

24 MS. BLAND: Of course.

25 MR. ACORN: Okay. To your knowledge he doesn't

1 have any connection to Happy Nails, does he?

2 MS. BLAND: I don't --

3 MR. ACORN: You don't have any evidence to think
4 that he has any connection to that, do you?

5 MS. BLAND: Not without seeing a license with
6 his name on it. Huh-huh, sure don't.

7 MR. ACORN: Okay. And again, it's your position
8 that Respondent's Exhibit No. 1 has been signed by
9 either Mr. Le or Ms. Nguyen?

10 MS. BLAND: Yes, sir.

11 MR. ACORN: Okay.

12 MS. BLAND: Yes, and it is.

13 MR. ACORN: Okay. I would hand this and ask the
14 Board to pass it around to look and see if they think
15 it's been signed. But that is your reason for giving
16 a copy of that document to either Mr. Nguyen -- or
17 excuse me. Ms. Nguyen or Mr. Le and not a copy of
18 this document that contains all this evidence that
19 are your statements.

20 MS. BLAND: This one right here is not signed
21 because they probably wouldn't sign it. That's the
22 only reason, the only time that I don't leave a
23 document is because it would not be signed. This
24 white piece of paper is the one that -- and I'm
25 sorry. I don't recall who wrote this down. I know

1 this is not my writing, but this is the piece of
2 paper that I'm speaking about that I had them write
3 the person's name down.

4 MR. ACORN: And that contains the same person
5 that the affidavit refers to, correct?

6 MS. BLAND: I think so. And -- and I stapled it
7 to my report, so -- and I don't recall who wrote
8 that. I'm sorry.

9 MR. ACORN: Okay. But you didn't leave any
10 of this paperwork with either of these two
11 individuals for us to have even gotten this name from
12 your own documentation, could we? Because we don't
13 have a copy of this, do we?

14 MS. BLAND: You would have had a copy if it was
15 sent out --

16 MR. ACORN: I've never seen it before.

17 MS. BLAND: -- as a violation.

18 MR. ACORN: Okay. But you admit that --

19 MS. BLAND: No, I did not leave a copy. It --

20 MR. ACORN: You didn't leave a copy --

21 MS. BLAND: -- wasn't signed.

22 MR. ACORN: -- of this napkin either?

23 MS. BLAND: Well, no.

24 MR. ACORN: Okay.

25 MS. BLAND: That was the only copy that I had.

1 MR. ACORN: I think I'll pass her back for now,
2 sir.

3 MR. JOCHUMS: Okay. I want to call Kathy
4 Wittum. You're the director of the Board and you're
5 the maintainer of the primary file in this case. And
6 while I'm asking Kathy some questions, why don't we
7 pass these other two reports around so the Board can
8 be reading those.

9 MR. ACORN: They haven't been marked, sir. You
10 might want to --

11 MR. JOCHUMS: Well, that's true.

12 MR. ACORN: -- make sure you get the exhibits
13 marked.

14 MR. JOCHUMS: Well, why don't we mark them. And
15 I think this one is 3 and this one is --

16 MS. WITTUM: This is the one that just got
17 brought down, isn't it?

18 MS. BLAND: That's the original copy where it
19 shows where they signed or not.

20 MR. JOCHUMS: Let's let her put the stickers on.
21 And then --

22 MR. ACORN: Well, I'll like to look at it.

23 (Exhibits are marked.)

24 MR. ACORN: Well, this looks like she signed it.
25 I mean I'll go ahead and state that it looks like it

1 has been signed and that it just doesn't show up on
2 the carbon.

3 MR. JOCHUMS: Let's make this -- 4, I believe.
4 Let's get a number on it. As I was going to ask
5 Kathy, I realize you're new, but you have access to
6 the history on this particular license that you can
7 bring in?

8 MS. WITTUM: What is contained in the file is
9 what I have looked at to prepare for today. What
10 Sheila just brought is the copies of the inspection
11 reports for California Nails that are kept in a
12 separate location. Unfortunately, that is something
13 is confuse -- in my opinion, is confusing the office.
14 We need to have these records together. But these
15 are the actual copies of the inspection reports, the
16 originals that Pat sent in for her visit during, I
17 believe it's going to be 2005. Possibly 2004 in
18 there.

19 MR. JOCHUMS: Now back to this particular
20 license, do they have a history of fines?

21 MS. WITTUM: Yes, they do.

22 MR. JOCHUMS: How far do they go back?

23 MS. WITTUM: As far back as I could find there
24 was a civil penalty imposed back in July of 1999 for
25 allowing an unlicensed person to work in the salon.

1 That civil penalty was paid in December of '99.
2 There was another violation in February '01, where an
3 unlicensed person was working in the salon and there
4 were also health and safety violations found. That
5 civil penalty was paid in May of '01. There was
6 another violation in May of '02, where the -- Pat had
7 found an unlicensed person working in the salon.
8 That civil penalty was paid in September of '02.
9 Another violation occurred in February of '04, an
10 unlicensed person was found working in the salon.
11 And that civil penalty was paid in June of '04. And
12 that brings us to the current problem.

13 MR. JOCHUMS: That does it for us.

14 MR. ACORN: When did Ms. Nguyen take over the
15 business?

16 MS. WITTUM: When Ms. Nguyen?

17 MR. ACORN: When does it -- when do your records
18 reflect she got her first license?

19 MS. WITTUM: I don't --

20 MR. ACORN: I understand you just read the
21 report of the facility license, is that correct?
22 Irrespective of what name it was being operated in or
23 being held under; is that correct?

24 MS. WITTUM: Right.

25 MR. ACORN: Okay. When did Ms. Nguyen first

1 become the name holder on that license for that
2 facility?

3 MS. WITTUM: It appears to be July 1, 2003.

4 MR. ACORN: Okay. So may I approach? I was
5 waiting for somebody to answer that question. I'm
6 sorry. Let's look back at their -- that since --
7 there's only been three incidences and two of the
8 three incidence you just read off involve the
9 allegations that we're here with today, correct?

10 MS. WITTUM: Yes.

11 MR. ACORN: So since she took the license over
12 there's only been one violation that she's been found
13 in violation of and paid a fine over, correct?

14 MS. WITTUM: Correct.

15 MR. ACORN: And what was that?

16 MS. WITTUM: That was for allowing an unlicensed
17 person to work in the salon.

18 MR. ACORN: And when?

19 MS. WITTUM: It was in February of '04.

20 MR. ACORN: In February of '04, okay. And you
21 also talked about being over the file and what not.
22 Her most -- you will agree with me that her most
23 recent inspection report submitted to be kept by your
24 file shows no violations, correct?

25 MS. WITTUM: I -- where are the --

1 MR. ACORN: Well, you heard Ms. Bland testify
2 that she inspected the facility in August --

3 MS. BLAND: August.

4 MS. WITTUM: Right.

5 MR. ACORN: -- of 2005, and at that time there
6 weren't --

7 MS. WITTUM: I couldn't --

8 MR. ACORN: But at that time there were no
9 violations, correct?

10 MS. WITTUM: I think if that's what Pat is
11 saying then I would agree with that.

12 MS. BLAND: I think it looks like it.

13 MR. ACORN: I have here a packet of what I'll
14 call copies of licenses. Those appear to all be
15 current licenses and everything else, correct?
16 Issued by this Board?

17 MS. WITTUM: Yes. This one it shown as expiring
18 in last year.

19 MR. ACORN: Right. It's not current, but copies
20 of licenses?

21 MS. WITTUM: Yes.

22 MR. ACORN: Okay. I'd move to just mark this as
23 Respondent's Exhibit No. 6.

24 MR. JOCHUMS: No objection.

25 (Respondent's Exhibit No. 6 was admitted into

1 evidence and marked to append.)

2 MR. ACORN: Have you ever had an occasion to
3 meet with either Mr. Le or Ms. Nguyen?

4 MS. WITTUM: No, sir.

5 MR. ACORN: Have you ever visited their
6 facility?

7 MS. WITTUM: No, sir.

8 MR. ACORN: Nothing further.

9 MR. JOCHUMS: I --

10 MR. ACORN: I actually have a couple of
11 questions. If I may -- interrupt you. How does
12 someone -- this may be redundant for the Board, I
13 understand, but how does someone apply to get a
14 license here?

15 MS. WITTUM: It's an application process.

16 MR. ACORN: Okay. Is that reviewed by this
17 Board?

18 MS. WITTUM: No, but it's done in-house by
19 staff.

20 MR. JOCHUMS: I presume he's talking about the
21 shop license.

22 MR. ACORN: I'm talking about a facility
23 license.

24 MS. WITTUMS: A new shop? They're reviewed in
25 this office.

1 MR. ACORN: They're reviewed by your office?

2 MS. WITTUM: Right.

3 MR. ACORN: Okay. How about an individual
4 license for a pedicurist or manicurist or anything
5 like that? Maybe take a test?

6 MS. WITTUM: Yes.

7 MR. ACORN: What if they're licensed in Texas,
8 is there any type of reciprocating arrangement?

9 MS. WITTUM: Yes, there is. There is a
10 reciprocity application that they can go through. We
11 then, the office staff, will determine whether or not
12 the same qualifications that are met here in Arkansas
13 exist in whatever state that they're coming from.

14 MR. ACORN: When that person was tested and
15 became licensed in the other state?

16 MS. WITTUM: Yes.

17 MR. ACORN: Is there a grace period? Let's say
18 I'm licensed in Texas and I move here January 1 and
19 mail in my application January 1, do I have a 30 day
20 approval or disapproval period --

21 MS. WITTUM: No.

22 MR. ACORN: I have to wait until I'm licensed?

23 MS. WITTUM: That's correct.

24 MR. ACORN: Who provides copies of these
25 regulations to the individual license holders?

1 MS. WITTUM: They would get them when they apply
2 through reciprocity.

3 MR. ACORN: Okay. What about for a facility;
4 how would a facility -- when would a facility receive
5 a copy of the rules and regulations?

6 MS. WITTUM: When they apply to open up their
7 establishment.

8 MR. ACORN: Okay. Nothing further.

9 MR. JOCHUMS: I have no other questions, but I
10 neglected to ask if any of the Board members if you
11 wanted to question either Kathy or Inspector Bland.
12 You can now or we can proceed with this case and you
13 may ask questions later.

14 MR. KEENE: I don't have any questions.

15 MR. JOCHUMS: Proceed.

16 MR. ACORN: I'll call -- ask Ms. Nguyen. Will
17 she be all right testifying right here?

18 MR. JOCHUMS: If the court reporter's happy.

19 MR. ACORN: You're going to have to sit forward
20 ma'am. And speak up, okay? State your name. Tell
21 us your name.

22 MS. NGUYEN: My name is Thu Huong.

23 MR. ACORN: This is going to be a problem. I
24 don't know how to overcome it. Can we have just a
25 moment, please, if you don't mind?

1 COURT REPORTER: You may move the microphone
2 closer to her.

3 MR. ACORN: Okay. Let's try this again, Ms.
4 Nguyen. Tell us your name.

5 MS. NGUYEN: My name Thu Huong Nguyen.

6 MR. ACORN: Okay. Ms. Nguyen, where do you
7 work? Can I lead her a little bit preliminarily?

8 MR. JOCHUMS: Sure.

9 MR. ACORN: Do you work at California Nails? In
10 Pine Bluff?

11 MS. NGUYEN: Yes, sir.

12 MR. ACORN: Who is your husband?

13 MS. NGUYEN: (No response.)

14 MR. ACORN: Who are you married to?

15 MS. NGUYEN: Uh -- my husband is Le.

16 MR. ACORN: This gentleman here?

17 MS. NGUYEN: Yes.

18 MR. ACORN: Do you recall Ms. Bland coming to
19 visit with you in March of 2003 or 2005?

20 MS. NGUYEN: (No response.)

21 MR. ACORN: Here.

22 (Showing witness document.)

23 MR. ACORN: On this date? Do you recall her
24 coming to visit your location in the mall?

25 MS. NGUYEN: Yes.

1 MR. ACORN: At that time, did you offer money?

2 MS. NGUYEN: No.

3 MR. ACORN: Did you try to explain to her you're
4 trying to sell the store?

5 MS. NGUYEN: No, sir.

6 MR. ACORN: Do you understand my question?

7 MS. NGUYEN: (No response.)

8 MR. ACORN: Have you ever let someone work there
9 that doesn't have a license?

10 MS. NGUYEN: No, sir.

11 MR. ACORN: Do you understand what I'm asking
12 you?

13 MS. NGUYEN: Yes.

14 MR. ACORN: Okay. Is this individual your
15 employee?

16 MS. NGUYEN: Yes, sir.

17 MR. ACORN: Okay. And for the record she's
18 referring to the Liz Phuong Tran of the last page.
19 Who is this? Who is Mihn Tri Le?

20 MS. NGUYEN: That's him.

21 MR. ACORN: That is your husband. He is
22 licensed as well, correct?

23 MS. NGUYEN: Yes.

24 MR. ACORN: This is you, correct? Thu Huong
25 Nguyen?

1 MS. NGUYEN: Yes.

2 MR. ACORN: Okay. And you're licensed as well,
3 correct?

4 MS. NGUYEN: Yes.

5 MR. ACORN: Are your employees licensed to
6 perform these?

7 MS. NGUYEN: Yes.

8 MR. ACORN: Do you understand English very well?

9 MS. NGUYEN: Not much.

10 MR. ACORN: Not much? Where did you go to
11 school to become a manicurist?

12 MS. NGUYEN: I go to a -- in Oklahoma.

13 MR. ACORN: In Oklahoma? Did you come here and
14 then become licensed? Here in Arkansas?

15 MS. NGUYEN: Yes.

16 MR. ACORN: When did you purchase this business?

17 MS. NGUYEN: On 2-0-3, I remember --

18 MR. ACORN: In July of 2003?

19 MS. NGUYEN: Yes, sir.

20 MR. ACORN: Are you trying to sell it right now?

21 MS. NGUYEN: Yes, sir.

22 MR. ACORN: Are you still -- you've seen these -
23 - I gave all my copies out. The newspaper article
24 that he's got right there; is that your ad?

25 MS. NGUYEN: Yes, sir.

1 MR. ACORN: Are you still running that ad?

2 MS. NGUYEN: Yes, sir.

3 MR. ACORN: Has that ad been running all year?

4 MS. NGUYEN: I believe so.

5 MR. ACORN: Okay. Was it running back in March?

6 MS. NGUYEN: Yes, sir.

7 MR. ACORN: Okay. Do you recall when Mihn Tre
8 Nguyen came to look at it? Your business? Back in
9 April?

10 MS. NGUYEN: (No response.)

11 MR. ACORN: Here. On this date. Do you
12 remember this person being there on this date?

13 MS. NGUYEN: Yes.

14 MR. ACORN: Was she there to talk about buying
15 the store?

16 MS. NGUYEN: Yes, sir.

17 MR. ACORN: Okay. Has anybody else come to look
18 at the business?

19 MS. NGUYEN: (No response.)

20 MR. ACORN: There's a man there today looking at
21 the business, isn't there?

22 MS. NGUYEN: Yes, sir.

23 MR. ACORN: Okay. And my secretary is there
24 right now watching the front door, isn't she?

25 MS. NGUYEN: Yes, sir.

1 MR. ACORN: And you're not open for business
2 right now, are you?

3 MS. NGUYEN: No, sir.

4 MR. ACORN: And that's because you and your
5 husband are here right now, correct?

6 MS. NGUYEN: Yes, sir.

7 MR. ACORN: Have all the people that have come
8 to look at your business to buy it been Vietnamese?

9 MS. NGUYEN: Yes, sir.

10 MR. ACORN: Okay. Now I want to be very clear
11 with you. On August -- excuse me. Strike that. On
12 April 16 was Mihn T. Nguyen working at your business?

13 MS. NGUYEN: (No response.)

14 MR. ACORN: Was this person there working at
15 your business?

16 MS. NGUYEN: No, sir.

17 MR. ACORN: Was she there to talk about buying
18 the business?

19 MS. NGUYEN: Okay.

20 MR. ACORN: Did you husband and Ms. Bland go to
21 a back room?

22 MS. NGUYEN: No, sir.

23 MR. ACORN: Did your husband ever try to offer
24 her money?

25 MS. NGUYEN: No, sir.

1 MR. ACORN: Okay. I'd pass the witness at this
2 time.

3 MR. JOCHUMS: On April 16 --

4 MR. ACORN: Let me work with you a little bit.
5 On this date, okay? On this date. Go ahead.

6 MR. JOCHUMS: It was the March one I meant to
7 ask about. I'm sorry.

8 MR. ACORN: Okay. Let me start over with her.
9 On this date.

10 MS. NGUYEN: Okay.

11 MR. JOCHUMS: In March, did Ms. Bland come to
12 your store? Your shop?

13 MS. NGUYEN: Yes, sir.

14 MR. JOCHUMS: Okay. And did one of the stations
15 have the license for Hung Ding Cao, I guess?

16 MS. NGUYEN: Yes, sir.

17 MR. JOCHUMS: Okay. And was there somebody
18 working at that station on that day?

19 MS. NGUYEN: No, sir.

20 MR. JOCHUMS: Nobody was there?

21 MS. NGUYEN: No, sir.

22 MR. JOCHUMS: Okay. Was Mr. Cao there that day?

23 MS. NGUYEN: Can you say again?

24 MR. JOCHUMS: You're not sure?

25 MS. NGUYEN: Can you say?

1 MR. JOCHUMS: Oh, you didn't hear me? Was the
2 name on this license, which I can't even say. I'm
3 sorry. Was he working here that day?

4 MS. NGUYEN: Oh, no, sir.

5 MR. JOCHUMS: Okay. Was there someone else
6 working in his station? Some second person?

7 MS. NGUYEN: No, sir.

8 MR. JOCHUMS: Do you know why Ms. Bland would
9 have taken this license?

10 MS. NGUYEN: Yes, sir.

11 MR. JOCHUMS: Okay. Why?

12 MS. NGUYEN: The -- she asked is who like in
13 here. This is -- she saw the license. And I tell
14 her he just quit job and he not working here. And
15 she say, okay, so I took this license. I say yes.
16 That's all.

17 MR. JOCHUMS: Let's talk about April 16. April
18 16th?

19 MR. ACORN: This day. This day.

20 MS. NGUYEN: Okay.

21 MR. JOCHUMS: Do you agree that there was an
22 unlicensed person working that day?

23 MS. NGUYEN: No, sir.

24 MR. JOCHUMS: And your explanation is the --
25 this young lady was there to buy the store?

1 MS. NGUYEN: Yes, sir.

2 MR. JOCHUMS: Okay. Was there a man there that
3 day that didn't have a license?

4 MS. NGUYEN: No, sir.

5 MR. JOCHUMS: When -- when did you change
6 ownership from you to your husband?

7 MS. NGUYEN: (No response.)

8 MR. ACORN: I don't think that's a proper
9 question. Let me tell you why. I don't think they
10 changed ownership. I think they just changed the
11 name on the license.

12 MR. JOCHUMS: Oh.

13 MR. ACORN: They're married, so.

14 MR. JOCHUMS: Okay. Let me -- I'll rephrase
15 that. You're legally right. When was the name on
16 the license changed from yours to his name?

17 MS. NGUYEN: Hmm --

18 MR. JOCHUMS: If you don't remember that's --
19 just tell me that.

20 MR. ACORN: I can show her this. Would this be
21 all right? Do you recognize this? Is this the date
22 you think? Here we go. Does that help you answer
23 the man's question? Is that about the time period
24 you changed it over, had it changed over?

25 MS. NGUYEN: Yes, sir.

1 MR. ACORN: Tell him the date, ma'am.

2 MS. NGUYEN: Uh -- July 5, 2-0-0-1.

3 MR. JOCHUMS: 2-0-0-5?

4 MS. NGUYEN: 2-0-0-5.

5 MR. JOCHUMS: Do you have other questions?

6 MR. ACORN: I just have one. Ms. Nguyen, when
7 Ms. Bland comes to your shop, if there's anyone there
8 that's Vietnamese, does she always think that they're
9 working?

10 MS. NGUYEN: (No response.)

11 MR. ACORN: Do you understand my question?

12 MS. NGUYEN: Huh-uh. (Shaking head back and
13 forth from side to side.)

14 MR. ACORN: If there is some Vietnamese in your
15 shop, does Ms. Bland think they're working?

16 MS. NGUYEN: She think this lady is working in
17 my store.

18 MR. ACORN: And she was Vietnamese?

19 MS. NGUYEN: Yes, sir.

20 MR. ACORN: Nothing further.

21 MR. JOCHUMS: I think we'll rest.

22 MR. ACORN: I'd call Mr. Le. Mr. Le, you're
23 going to have to speak up, okay? State your name,
24 please.

25 MR. TRI: My name T-R-I. Tri.

1 MR. ACORN: And who are you married to?

2 MR. TRI: Right here. (Indicating Thu Huong
3 Nguyen, next to him.)

4 MR. ACORN: How long have y'all been married?
5 (Chorus of laughter.)

6 MR. ACORN: How long have y'all been married?

7 MR. TRI: Nineteen, twenty year.

8 MR. ACORN: Between 19 and 20 years?

9 MR. TRI: Yes.

10 MR. ACORN: When did your wife buy California
11 Nails?

12 MR. TRI: Buy?

13 MR. ACORN: When did y'all buy or start working
14 at California Nails?

15 MR. TRI: Oh, on the I believe it 2003. July,
16 yeah.

17 MR. ACORN: Okay.

18 MR. TRI: July.

19 MR. ACORN: Okay. You have been here for this
20 entire hearing. Were you present on March 23, 2005?

21 MR. TRI: Yes.

22 MR. ACORN: Were you there?

23 MR. TRI: Yes.

24 MR. ACORN: Do you have a license?

25 MR. TRI: Yes.

1 MR. ACORN: Is your license current?

2 MR. TRI: Yes.

3 MR. ACORN: Does your wife have a license?

4 MR. TRI: Yes.

5 MR. ACORN: If your wife's license current?

6 MR. TRI: Yes.

7 MR. ACORN: Is your facility's license current?

8 MR. TRI: Yes.

9 MR. ACORN: Are your employees licensed?

10 MR. TRI: Yes.

11 MR. ACORN: Do you think that Ms. Bland might
12 see Vietnamese people in your shop and just assume
13 they're working?

14 MR. TRI: I -- I think.

15 MR. ACORN: Because Mihn T. Nguyen was not
16 working on April 16th, was she?

17 MR. TRI: No.

18 MR. ACORN: Did Ms. Bland think she was working
19 that day?

20 MR. TRI: I think.

21 MR. ACORN: Let's talk for a minute about April
22 16, 2005. Did you offer her money?

23 MR. TRI: No. (Laughing.)

24 MR. ACORN: What is so funny?

25 MR. TRI: I got no idea.

1 MR. ACORN: Why she would say that or --

2 MR. TRI: I don't know why.

3 MR. ACORN: Did you talk to her about trying to
4 sell your store?

5 MR. TRI: No.

6 MR. ACORN: Okay. You think she might have
7 misunderstood you?

8 MR. TRI: I think.

9 MR. ACORN: Okay. Does your brother come visit
10 you sometimes?

11 MR. TRI: Yes.

12 MR. ACORN: Is your brother on the Board of
13 Cosmetology in Texas?

14 MR. TRI: Yes.

15 MR. ACORN: The newspaper article. Would you
16 please read it. Could you hold it -- I think he can
17 see it from there. What does it say? What does it
18 say?

19 MR. TRI: Cân sang --

20 MR. ACORN: In English, what does it say?

21 MR. TRI: English? We need to -- we need to
22 sell a nail shop. Cheap rent. In the Mall. Good
23 Income. Please -- no, no. Call Jenny. And the
24 phone number, right there.

25 MR. ACORN: Jenny, being your wife?

1 MR. TRI: Yes.

2 MR. ACORN: Okay. Do you have any connection to
3 Happy Nails?

4 MR. TRI: No, I -- no. I got no idea. I never
5 -- I don't Hap -- Happy Nail, I don't know.

6 MR. ACORN: Okay. Did you and Ms. Bland have a
7 conversation about that?

8 MR. TRI: Oh, yes.

9 MR. ACORN: What did she say to you?

10 MR. TRI: She come and she ask me, you work
11 somewhere? I said, no, ma'am. And she say, I know
12 you work somewhere right here. And I tell her, uh,
13 how many you go check everyday? She say a lot. I
14 tell her I think you confuse it. I don't work ne --
15 anywhere. I just work right here only. I told her
16 that.

17 MR. ACORN: She ask you questions about who you
18 were married to?

19 MR. TRI: Oh, she say -- no. She asked me, are
20 you married? I tell -- (shrugs shoulders) and
21 meantime I -- why she ask me married? I say, oh, I
22 married with a black lady over here.

23 MR. ACORN: So you lied to her about who you
24 were married to?

25 MR. TRI: She ask me because I don't know why

1 she asked me married. And she says -- and I tell her
2 that, my wife black lady over here in Pine Bluff.

3 MR. ACORN: Is it appro --

4 MR. TRI: That -- I remember that I tell her.

5 MR. ACORN: Is it offensive in your culture to
6 be asked those questions?

7 MR. TRI: Yes.

8 MR. ACORN: Okay. Your wife does not have the
9 same last name as you do either, correct?

10 MR. TRI: Correct.

11 MR. ACORN: Were you and your wife married in
12 Vietnam?

13 MR. TRI: Yes.

14 MR. ACORN: At that time -- let's just say it's
15 a cultural thing, is that fair enough?

16 MR. TRI: Just not to.

17 MR. ACORN: Okay. Did you try to offer her
18 money?

19 MR. TRI: No.

20 MR. ACORN: Did you have an unlicensed person
21 working in your shop?

22 MR. TRI: No.

23 MR. ACORN: You think she just sees somebody
24 Vietnamese and assumes they're working?

25 MR. TRI: I think. I believe so. I --

1 MR. ACORN: Okay. Do you try to cooperate with
2 her as best you can?

3 MR. TRI: Yes.

4 MR. ACORN: Do you understand English a little
5 bit better than your wife?

6 MR. TRI: Yes. And sometime I -- you ask much,
7 you're confusing me. You talk slow. I may
8 understand.

9 MR. ACORN: Okay. I mean you and I have had
10 that problem, haven't we?

11 MR. TRI: What problem?

12 MR. ACORN: You misunderstood me right then. I
13 was making a joke. I'm sorry. Okay. Have you ever
14 received a copy of the regulations from the
15 Cosmetology Board? When you got your license did you
16 get a copy of your -- of the current regulations?

17 MR. TRI: What -- what?

18 MS. BLAND: The paper that's on the wall.

19 MR. TRI: No. We don't. No.

20 MR. ACORN: You mean the entire regulations that
21 this Board follows are posted on the wall in your
22 shop? When you got your license in July of 2005, did
23 you receive a copy of the regulations telling you
24 what governed the practices and procedures of your --
25 of your -- under this Board, under these regs; did

1 you? Because I asked you for those --

2 MR. TRI: No.

3 MR. ACORN: -- didn't I? And you didn't have
4 any to bring me, did you?

5 MR. TRI: No.

6 MR. ACORN: And you should've gotten some in
7 July, correct?

8 MR. TRI: Yes.

9 MR. ACORN: When you got your license?

10 MR. TRI: Yes.

11 MR. ACORN: But you didn't, did you?

12 MR. TRI: No.

13 MR. ACORN: Nothing further.

14 MR. JOCHUMS: Mr. Le, is that right? Tri Le?

15 MR. TRI: Yeah, Tri Le.

16 MR. JOCHUMS: Tri, you like Tri better?

17 MR. TRI:

18 MR. JOCHUMS: Sir, I think you told us that you
19 and your wife bought the shop in 2003?

20 MR. TRI: Yes.

21 MR. JOCHUMS: Where did you work before you
22 bought that shop?

23 MR. TRI: In Oklahoma.

24 MR. JOCHUMS: So you -- when you moved from
25 Oklahoma is when you --

1 MR. TRI: Yes.

2 MR. JOCHUMS: -- bought that shop?

3 MR. TRI: Yes.

4 MR. JOCHUMS: Had you worked in Pine Bluff
5 before that date?

6 MR. TRI: No, never. Because I work in my
7 company eleven year. I got laid off. And I come
8 with my wife whenever she go.

9 MR. JOCHUMS: Thank you. I have no other
10 questions of Mr. Tri.

11 MR. ACORN: Have you ever received anything that
12 says you have to have a driver's license in your
13 pocket or anything like that?

14 MR. TRI: She be asked me?

15 MR. ACORN: Yeah.

16 MR. TRI: Oh, yeah, she asked me all time.

17 MR. ACORN: She asks you all the time for yours,
18 okay.

19 MR. TRI: I show her my --

20 MR. ACORN: Okay. To your knowledge are the
21 majority of the nail shops owned by Vietnamese? Or a
22 lot of them in Arkansas owned by Vietnamese.

23 MR. TRI: Yes.

24 MR. ACORN: Okay. Thank you.

25 MR. JOCHUMS: If there are no other questions?

1 I presume that's your last witness?

2 MR. ACORN: Yes, sir.

3 MR. JOCHUMS: Board members, have any questions
4 of anybody that's been a witness, speak.

5 MS. MCKINNEY: I would like to just have a
6 couple of things clarified, if you don't mind. And
7 this has to do with Ms. Nguyen. You had asked her
8 when she purchased this on and it was June or July of
9 '03?

10 MR. ACORN: Yes, ma'am.

11 MS. MCKINNEY: And I thought I heard --

12 MR. ACORN: They purchased it together. I need
13 to make that clear. They are --

14 MS. MCKINNEY: No, I thought she got it and then
15 in '05 was when --

16 MR. ACORN: Well, we're talking about apples and
17 oranges here, I think.

18 MS. MCKINNEY: Right.

19 MR. ACORN: They're married.

20 MS. MCKINNEY: Right.

21 MR. ACORN: So obviously, they bought it. But
22 the license was issued in her name originally and
23 then the license was then issued in his name in June
24 of 2005.

25 MS. MCKINNEY: Well, that's fine. What I want

1 to clarify is that it's June or July of 2003?

2 MR. ACORN: Yes, ma'am.

3 MS. MCKINNEY: Did I hear correctly, you ask
4 have you ever had anyone unlicensed working in the
5 salon and the response was no?

6 MR. ACORN: Yes, ma'am.

7 MS. MCKINNEY: But then on the dates that were
8 give on the inspection where the history of the salon
9 --

10 MR. ACORN: Yes, ma'am.

11 MS. MCKINNEY: -- there was a inspection dates
12 February of '04.

13 MR. ACORN: Yes, ma'am.

14 MS. MCKINNEY: And the violation was for having
15 an unlicensed person working.

16 MR. ACORN: And they elected to do what a lot of
17 us do when we get a speeding ticket or we get
18 something that we felt like. They did a cost
19 analysis and they elected to pay the fine associated
20 with that as opposed to hire someone like me to come
21 up here and fight it. And I think you will find that
22 that's a very common response a lot of times. But
23 they have always maintained with me they've never had
24 someone unlicensed. They just elected to pay it at
25 that time. And plus, I have to be honest with you,

1 they did not consult with an attorney at that time.
2 If they had consulted with me, I would've obviously
3 instructed them, that's not what you should do. Now
4 you might think there's some veiled altruistic
5 behavior there, but I promise you it's not. They --
6 they -- and they paid it. We talked about that and
7 they did not consult with an attorney. They were
8 confused and they -- they paid it. But they have --
9 obviously here fighting these allegations today and
10 have retained counsel to come fight them on their
11 behalf and with them.

12 MR. KEENE: I have a -- just a question. I
13 notice on your inspection report you have it checked
14 "yes" that there's a copy of the sanitation, health,
15 and safety rules posted. So on that -- on that
16 sheet, doesn't it also state that anyone in the salon
17 is supposed to be licensed that is working on
18 someone? Doesn't it say on that form?

19 MS. BLAND: Yes.

20 MR. KEENE: And you're saying there is one in
21 their salon?

22 MS. BLAND: Yes, sir. There is. It's on the
23 wall by their --

24 MR. KEENE: And this is not this year. This is
25 your own admission that the man was working in that

1 salon. He admitted to that violation for that. So -
2 -

3 MR. ACORN: I don't really follow you, sir.
4 We're talking about two different people.

5 MR. KEENE: So -- Oh, listen, you gave us -- you
6 gave me this.

7 MR. ACORN: Okay.

8 MR. KEENE: And said that this is a sworn
9 affidavit by Minh Nguyen?

10 MR. ACORN: Uh-huh.

11 MR. KEENE: And it says here, at this time I
12 helped her removed the toe separators. That's a
13 violation according to our rules and regulations.

14 MR. ACORN: Okay.

15 MR. KEENE: So --

16 MR. ACORN: Well, I think you --

17 MR. KEENE: -- by his own admission they're in
18 violation.

19 MR. ACORN: Well, I think that you can certainly
20 see that that is an effort to be truthful. That was
21 prepared by my office --

22 MR. KEENE: Sure.

23 MR. ACORN: -- by me. Because that's what the
24 lady through an interpreter told me her statement
25 was. But she was not there performing a full-blown

1 pedicure or a full-blown manicure.

2 MR. KEENE: I understand.

3 MR. ACORN: And this is an effort by us to be
4 totally up front with -- with the Board.

5 MR. KEENE: And I understand that and I
6 appreciate that.

7 MR. ACORN: Okay. And I think what the
8 testimony I've tried to elicit from my client's
9 concerning that is that this lady was in there to buy
10 the facility. And you know, she was dressed in
11 shorts. She was basically observing one of the
12 licensed individuals doing that. And she reached
13 down and did it. What can we say except that we're
14 not trying to hide that.

15 MR. KEENE: Well, I don't think you were trying
16 to hide it. Otherwise you wouldn't have put it in
17 the affidavit. But the fact is, that is a violation
18 under the regulations. And if this is posted in
19 their salon, you know, we can't force anybody to read
20 it either.

21 MR. ACORN: I understand.

22 MR. KEENE: And -- but your questions earlier
23 were whether or not they were seen there when they
24 applied for a shop license?

25 MR. ACORN: So that's all they would receive?

1 MR. KEENE: This is what they would receive.

2 MR. ACORN: And that encompasses the entire set
3 of rules and regulations?

4 MR. KEENE: Well, no, we also have a law book
5 and a regulation book. But everything that you've
6 been addressing today is in this piece of paper right
7 here.

8 MR. ACORN: Okay. If that's a copy of what's
9 posted in there and not one from three or four or
10 five years ago.

11 MR. KEENE: It hasn't changed.

12 MR. ACORN: Okay. Well you would know better
13 than I would if it has changed, but all I know --

14 MR. KEENE: It's going to.

15 MR. ACORN: -- is I inquired of my clients to
16 bring me the rules and regulations that I knew they
17 should have received. They maintained with me
18 throughout the entirety of that that they didn't get
19 anything. So I can only operate on what I am told.

20 MR. KEENE: And that's what we're doing.

21 MR. ACORN: I understand. I understand.

22 MS. POWELL: Previously, did they come before a
23 hearing for the last violation they had in February
24 '04? Did they come before a hearing?

25 MS. WITTUM: Yes. A civil penalty was imposed

1 for that violation.

2 MS. POWELL: Did they came -- you don't know if
3 they came or if they just paid it?

4 MS. WITTUM: Right.

5 MS. POWELL: Okay.

6 MR. ACORN: They've maintained with me, they
7 just paid it.

8 MS. POWELL: Did you come here when you had that
9 violation in February of '04?

10 MS. NGUYEN: (No response.)

11 MS. POWELL: Did you come here, to this meeting,
12 and meet before the Board for unlicensed people in
13 2004? Your first violation?

14 MS. NGUYEN: Yes, ma'am.

15 MS. POWELL: So you came here and sat right
16 there before?

17 MS. BLAND: I don't remember.

18 MS. POWELL: You did?

19 MS. NGUYEN: Yes.

20 MR. ACORN: Did you have an attorney, ma'am?

21 MS. NGUYEN: No, sir.

22 MR. ACORN: Did you just ultimately say, I'll
23 pay it? Do you even remember?

24 MS. NGUYEN: No, not really. I say I pay it.
25 But last time I just come to explain because I

1 remember -- he had the license. But I don't -- he
2 had the license in Texas. And in the meantime part
3 of change for the license or something. To have the
4 license over here. And the inspector come and that's
5 why I came here. I really don't know if he need to
6 have the Arkansas license before he working. But I
7 believe he is licensed in Texas at the time. That's
8 why and I come.

9 MS. POWELL: To finish my question, ma'am, that
10 you did appear here before. There seems to some
11 question on whether you had the opportunity to
12 understand Arkansas law in reference to Cosmetology.
13 If you've had the problem before and you've been here
14 before, you need to pick up the book. They're here.
15 This is where you would get a book. This one. It's
16 the law book, just so you know. While you're here,
17 get one in the main office. You have a large copy to
18 put on your wall, but this would be what you're not
19 understanding.

20 MR. ACORN: We have them now.

21 MR. KEENE: Now that rule book will be changing
22 sometime effective the first part of the year.

23 MS. POWELL: Plus it's on the internet.

24 MR. ACORN: Well, I promise you I could not find
25 it on the internet and I looked hard. But I don't

1 claim to be an expert at that kind of stuff.

2 MS. POWELL: It's under Arkansas Cosmetology.

3 MS. TURMAN: I would like to ask you something.

4 You said something -- you asked Mr. Tri?

5 MR. TRI: Yeah.

6 MS. TURMAN: If you had discussed him selling
7 his store and you said, he replied no. Yet you said,
8 do you think it was -- that you could say there was a
9 misunderstanding when you were talking about the
10 funds to be exchanged? How could it be a
11 misunderstanding if he had not mentioned the sale at
12 all?

13 MR. ACORN: I don't think he admitted to ever
14 showing her money or talking about money at all. So
15 I don't think he made that admission at all at any
16 point during his testimony, that he showed her money
17 or talked to her about money or things of that
18 nature. I think that my point I was attempting to
19 make, and if I made it poorly, I apologize. Was that
20 I think the sale of the store was, at this point,
21 pretty much common knowledge that they were
22 advertising. At least among my clients, it was, and
23 their employees and their regular customers and
24 things of that nature. And if maybe, you know, they
25 had talked about that. If I misled the Board, I

1 apologize.

2 MR. KEENE: Is there a "For Sale" sign in the
3 shop?

4 MR. ACORN: It's not permitted by the Mall.

5 MR. JOCHUMS: Pat, you may have forgotten since
6 it's been some time since you testified, but with
7 regard to the young lady that was there and buying
8 the store, at least that's what they said. What did
9 you actually see her doing?

10 MS. BLAND: I don't know whether someone was
11 buying or not buying.

12 MR. JOCHUMS: I understand.

13 MS. BLAND: I have no idea. I saw a man, I
14 believe my report reflects, applying a set of nails,
15 fingernails. And a lady doing a pedicure. I don't
16 recall someone -- I very well distinguish between
17 moving -- removing toe separators and a full
18 pedicure. And I recall a pedicure.

19 MR. KEENE: Any other questions? Anybody need
20 clarification on something?

21 MR. JOCHUMS: Both sides have rested, you're
22 free to deliberate.

23 MR. KEENE: Any discussion on this?

24 MR. ACORN: I would -- can I interrupt? I'm
25 sorry. I don't mean to be out of place. I would

1 like to say one thing before you do that.

2 MR. KEENE: Okay.

3 MR. ACORN: I would ask the Board to recognize
4 that a lot of these shops are owned by Vietnamese
5 people and address the issue that it may be necessary
6 to find someone -- the Rules of Administrative --
7 Administrative Rules say that you would have had to
8 have provided an interpreter today, whether I
9 requested one in advance or not. You would have been
10 required to provide an interpreter for Mr. Tri and
11 Ms. Nguyen at this hearing today. Now obviously I
12 felt -- did not feel the need to talk about that or
13 discuss it. I'm just asking you, please, recognize
14 that there is a language barrier and to do something
15 about finding or employing someone that can help
16 cross that language barrier between. From what I
17 understand, a large majority, well in excess of fifty
18 percent of these shops are owned by people that speak
19 Vietnamese and have English as a second language and
20 sometimes don't speak it very well. And if you
21 could, when you get a chance or get time, if you
22 would just see if something can be done to assist in
23 that or what not. Because it may become a problem
24 the next time you have one of these hearings. And I
25 can cite you it if you want me too, but they very

1 clearly in Administrative Procedures -- a hearing
2 held under Administrative Procedures Act, if an
3 interpreter is deemed to be necessary shall be
4 provided by the Board. So it could come a point
5 where you have to hire one to be here for these
6 proceedings. But at some point, I would ask that
7 y'all please discuss that and see if something can be
8 done to help deal with that problem. Not necessarily
9 specific to this case, but in all cases is what I'm
10 referring to, Mr. President.

11 MR. KEENE: Are you saying that says we have to
12 -- or we're supposed to provide one -- how would we
13 know whether we're supposed to provide one, if they
14 don't request it?

15 MR. ACORN: Well, all I know -- all I can do is
16 follow the statute. And the statute does not have a
17 Notice provision. In other words, it does not put a
18 burden on me to Notice the Board that I will require
19 an interpreter. I didn't write it, so don't blame
20 me. But I will find it and point it out here, just
21 shortly. I think I have it marked right here. May I
22 approach? I'll show it to you.

23 MR. KEENE: Sure.

24 (Mr. Acorn reads the statute aloud to the
25 Board.)

1 MR. ACORN: It says we have to pay for it, but
2 if we can't, the interpreter would then be appointed
3 by the Board or Agency.

4 (Mr. Acorn continues to read the statute aloud
5 to the Board.)

6 MR. ACORN: There's no Notice provision on here
7 that says that I --

8 MR. KEENE: No, basically what we would have to
9 do would be if there were a case then we'd have to
10 grant a continuance on it, so we could make sure we
11 have an interpreter here.

12 MR. ACORN: I would think. I mean I did not
13 feel the need to do -- I can't see making y'all that
14 mad at me.

15 MR. KEENE: We're not mad at all.

16 MR. ACORN: Well, I -- you understand what I
17 mean -- but what I mean by that.

18 MR. KEENE: But I'm glad to know that.

19 MR. ACORN: But additionally, I think there's an
20 issue of having the regulations -- I think this would
21 be a lot cheaper, too. Is having the regulations
22 printed in Spanish and Vietnamese and something of
23 that nature.

24 MR. KEENE: That is -- that has definitely been
25 a discussion with our National Testing Company. And

1 to do that in Spanish is not as big a problem as
2 Vietnamese is because there's nine thousand different
3 dialects of it. It doesn't cross over.

4 MR. ACORN: Well, I can't hold myself out to be
5 an expert on it. Except that I think that it would
6 be in the matter of due course be proper for the
7 Board to at least consider it and discuss it. And
8 that's all I'm asking you here today, is to at some
9 point, if y'all have an opportunity to see if
10 something can be done about it. But the law very
11 clearly says, yes, you would have to appoint the
12 interpreter and yes, you would have to pay for the
13 interpreter. So somewhere that --

14 MR. KEENE: I thought you said that they could.

15 MR. ACORN: Sir?

16 MR. KEENE: Didn't you say providing that they
17 couldn't?

18 MR. ACORN: Yes, sir. Provided that they
19 couldn't. But, you know, you're walking a line there
20 with the indigence determinations, so. We'll go from
21 there, sir. I'll be quiet and let y'all deliberate.
22 I'm sorry.

23 (Chorus of laughter.)

24 MR. KEENE: All right. We're open to
25 discussion.

1 (No response.)

2 MR. KEENE: Do I have a motion?

3 (No response.)

4 MR. KEENE: So far, I think the only thing
5 that's been substantiated is that they had a person
6 working with no license. Do I have a motion?

7 MS. TRAYLOR: Finding the allegations in the
8 case exist, I move to order the respondent to pay a
9 fine in the amount of \$250.00 payable within thirty
10 days of receipt of the Board's order. Failure to pay
11 the fine as ordered will result in a suspension of
12 the respondent's salon license beginning thirty days
13 from receipt of order and extending for a period of
14 ninety days from the date the respondent relinquishes
15 their license.

16 MS. TURMAN: Second.

17 MR. KEENE: I have a motion and a second.

18 MR. JOCHUMS: Just a clarification - finding the
19 allegation of unlicensed persons working.

20 MR. KEENE: Do I have a second?

21 MS. GORDON: LaJoy seconded.

22 MR. KEENE: Any more discussion? All in favor?

23 (Vote by show of hands.)

24 MR. KEENE: Any opposed? One opposed. Okay.

25 Motion passes.

1 MR. JOCHUMS: We will send -- is it okay to send
2 it straight to your office?

3 MR. ACORN: Just mail it to my office, please.
4 You have my card.

5 MR. JOCHUMS: We will send an order reflecting
6 the Board's action today.

7 MR. ACORN: Okay. It's my understanding that
8 the Board --

9 MR. JOCHUMS: That the Board has fined them
10 \$250.00 for unlicensed person working in the shop.

11 MR. ACORN: And that's the entirety of the
12 ruling?

13 MR. JOCHUMS: Yes.

14 MR. ACORN: Yes, sir. If you'll please mail it
15 to me, I ensure you I will get a copy of it to them -
16 - to my clients.

17 MR. JOCHUMS: And they have -- if you'll explain
18 that there are a certain number of days to get it
19 paid.

20 MR. ACORN: Thirty days from today? Or thirty
21 days from the receipt of that order?

22 MR. JOCHUMS: From the receipt of the order.

23 MR. ACORN: With that being the only matter I
24 have before the Board, I'd ask to be excused. Thank
25 you for entertaining my -- discussions today. Thank

1 you. We're leaving.

2 MR. KEENE: Let's take a -- let's take a ten
3 minute break.

4 (A short break was taken.)

5 MR. JOCHUMS: Hearing No. 05-194. Ms. Sims is
6 sitting at the table?

7 MS. SIMS: Yes, sir.

8 MR. JOCHUMS: Are you Pauline?

9 MS. SIMS: Yes, sir.

10 MR. JOCHUMS: Okay. You received a Notice of
11 Hearing to appear here today.

12 MS. SIMS: Yes, sir.

13 MR. JOCHUMS: I would like to make Exhibit 1,
14 the Notice of Hearing. This particular case involves
15 operating with an expired operator's license.

16 MS. SIMS: Yes, sir.

17 MR. JOCHUMS: In 2005, I believe. Inspector
18 Bland can explain what was going on more than I can.

19 MS. MORGAN: Morgan.

20 MR. JOCHUMS: Morgan.

21 MS. MORGAN: Bland's had enough.

22 (Chorus of laughter.)

23 MR. JOCHUMS: Both of you have been previously
24 sworn. Inspector Morgan, did you have occasion to
25 visit Paula's Le Hair Gallery in Little Rock?

1 MS. MORGAN: Yes, sir, I did on May 19, '05.

2 MR. JOCHUMS: And did you observe something that
3 appeared to be a violation of the Rules?

4 MS. MORGAN: Yes, I did. The salon had no
5 establishment license posted. I called the office
6 because Paula did have her practitioner license
7 current, which was -- is kind of unusual, because she
8 is the owner there and everything like that. So we
9 talked a bit, after I called the office and I found
10 out that she had surgery and had been back -- well,
11 she'd been off from work from January to March. And
12 this was in May. And I think I surprised her because
13 she didn't realize she had not renewed.

14 MR. JOCHUMS: Is this a one-person salon?

15 MS. MORGAN: Yes, sir.

16 MR. JOCHUMS: Okay. And have you inspected it
17 on other years?

18 MS. MORGAN: Yes, sir.

19 MR. JOCHUMS: Have you had any trouble or
20 history on it?

21 MS. MORGAN: Not like this.

22 MR. JOCHUMS: Okay. So you were there on May 19
23 and there was no license --

24 MS. MORGAN: No salon license --

25 MR. JOCHUMS: and that license was expired from

1 February 1, on basically.

2 MS. MORGAN: That is correct.

3 MR. JOCHUMS: Do you know of your own knowledge
4 this now renewed?

5 MS. MORGAN: It looks like on May 23, '05, a
6 renewal was received in the office.

7 MR. JOCHUMS: Okay. Thank you very much.

8 Paula, I have no other questions of her. Do you need
9 to ask her any questions here? Or if you just want
10 to tell us what you want to talk to us about, you can
11 do it that way.

12 MS. SIMS: Basically, I just wanted to explain.
13 But in December I was real sick. And I normally get
14 my license. I know it's December 31st up until
15 January 31st for renewal. And due to the fact I had
16 surgery the first of the year, I was off for four
17 months. And then when I did come back to work, which
18 was in May. April. And then the Board came by in
19 May and I didn't have it. I was unaware that I
20 didn't have because I had already gotten my practice
21 license, but my business license wasn't there. So I
22 was unaware of it. And that's why I'm here today.
23 It was an oversight, I guess, due to medication and
24 all. But I apologize for that.

25 MR. JOCHUMS: How long have you been licensed?

1 MS. SIMS: Twenty-six years. Never ever had a
2 problem with this. This is my first time, so this is
3 all new to me today.

4 MR. JOCHUMS: Okay. Did you have a problem back
5 in 2004 about renewal license?

6 MS. SIMS: Yes, I did. I was going through a
7 divorce and I did oversight that and I did pay the
8 fine.

9 MR. JOCHUMS: Okay.

10 MS. SIMS: And that's all for me.

11 MR. JOCHUMS: So what you're here for -- well,
12 let me ask another question. You said you came back
13 to work in April. Do you remember what week before
14 Ms. Morgan came by?

15 MS. SIMS: I had been working about a couple of
16 week's before the Board came in.

17 MR. JOCHUMS: So like a month?

18 MS. SIMS: Yes. Well, no, about a couple of
19 weeks before she came in. And it was on a Wednesday.
20 I'm normally off on Mondays and Tuesdays. And she
21 came in on a Wednesday, so when she said my license
22 wasn't hanging and I was like, no, they've got to be
23 there. I know I received my practice license. But
24 the business license wasn't there. And so I said,
25 call the Board because I know I do them most of the

1 time at the same time when I pull them off the Board
2 and she knows exactly when they are. And I said,
3 well, call the Board and find out because I usually
4 write both checks and send them off. And she said,
5 no, well, your practice license are there, but your
6 salon license isn't. So I said, well, I probably
7 overlooked it with being sick. And she said, well,
8 just call in. Maybe sometime they'll oversight that
9 just depending. So I said I'll do that.

10 MR. JOCHUMS: Okay. Do the Board members have
11 any questions of either of these? And I think that
12 nobody will object if I tell you that in April of
13 last year, 2004, there was a violation that led to a
14 \$131.00 fine that was promptly paid.

15 MS. SIMS: I paid it the next day that I knew.

16 MR. JOCHUMS: She paid it promptly. Also for
17 operating establishment and performing services and
18 related to that. Are there any questions for either
19 of them? If not we can proceed.

20 MR. KEENE: I just have a general question to, I
21 guess, our office. And that's are we here with her
22 today because this was a second offense in one year,
23 basically a year? Or did you or did she request the
24 hearing? I guess why didn't the fine just get paid
25 this time? Maybe that's what I need to ask.

1 MS. SIMS: Because I hadn't been there working.
2 I didn't have the funds. And that's why they hadn't
3 got paid this time.

4 MR. JOCHUMS: Maybe they didn't send her a fi --
5 we'll just ask Kathy if she sent a letter telling her
6 that if she wanted to appeal that she could.

7 MS. WITTUM: She was. And she requested this
8 hearing.

9 MS. MORGAN: She requested it.

10 MR. KEENE: Basically because you weren't there
11 the entire time --

12 MS. SIMS: Because I wasn't working and I didn't
13 feel --

14 MR. KEENE: -- you're thinking that a different
15 find amount would be more appropriate?

16 MS. SIMS: I guess so.

17 MR. JOCHUMS: I think she's seeking leniency.
18 She's saying fine me for one month, not four months.

19 MR. KEENE: Yeah, that's what I'm asking her.

20 MS. SIMS: Correct.

21 MR. KEENE: Go ahead, Jane.

22 MS. POWELL: Is you happen to go to her salon
23 and find anyone there from the time -- she said the
24 end of the year, December or January of having a
25 surgery. Had you visited or tried to visit that

1 salon from January through May -- March or April?

2 MS. MORGAN: Okay. I was in the office in
3 January and part of February. But I heard there are
4 several salons where she is. There's like three, I
5 believe. And I did have occasion to go to a salon
6 that just recently opened before this date, the one
7 to the other -- to the other side of your salon
8 there. And when I did, I saw that there was a sign
9 on her door telling that she had been sick and had
10 surgery. And I can't tell you the exact date when it
11 said she will be back.

12 MS. SIMS: After March.

13 MS. MORGAN: But there was a date that said she
14 would be back after such and such date. So she was
15 not open when I opened that new salon that was next
16 door. That's the only time I can account for.

17 MS. POWELL: Then Kathy, do you was this a
18 \$25.00 -- do you know where and how we reached the
19 amount?

20 MS. WITTUM: From February 1st to May 23rd. And
21 Cheryl, you estimated the summary --

22 MS. ESAW: The base on that is \$25.00 and \$1.00
23 per day up until the date of renewal.

24 MR. KEENE: That's a first offense. This would
25 be a second offense. It says it would be multiplied

1 by the number of offenses. And this would be two, so
2 the base would be \$50.00 plus a \$1.00 a day.

3 MS. POWELL: That doesn't double?

4 MR. KEENE: Still says \$1.00 a day. That would
5 be \$50.00 plus a \$1.00 a day for how long you
6 determined that she actually worked. She's saying
7 about 2 weeks.

8 MS. POWELL: I'd like for us to get a
9 calculation on here from the staff.

10 MS. WITTUM: How many days were you wanting to?

11 MS. POWELL: Well, I'm thinking that it would
12 cover two months. We know that she came back in in
13 April. She should have had a license from then until
14 renewal.

15 MR. KEENE: Do you want to make a motion?

16 MS. POWELL: Finding the allegations being true,
17 I move to order the respondent to pay a fine in the
18 amount of \$136.00, payable within thirty days of the
19 receipt of the Board's order. Failure to pay the fine
20 as ordered will result in a suspension of the
21 respondent's salon license beginning thirty days from
22 receipt of order and extending for a period of ninety
23 days from the date the respondent relinquishes their
24 license.

25

1 MS. MCKINNEY: Second.

2 MR. KEENE: I have a motion and a second by
3 Mitzie. Anymore discussion?

4 (No response.)

5 MR. KEENE: All in favor?

6 (Vote by show of hands.)

7 MR. KEENE: Opposed?

8 (No hands raised.)

9 MS. WEST: Abstain.

10 MS. GRAY: Abstain.

11 MR. KEENE: Abstain? Okay. Brenda and Sherron.

12 MR. JOCHUMS: Thank you. You will get a written
13 order in the mail from the Board office. And if you
14 want, we'll accept payment today. The next hearing
15 is -- sorry. I can't say your name.

16 MR. HAI: Hai.

17 MR. JOCHUMS: Come up and introduce yourself to
18 us all.

19 MR. HAI: My name is Hai. H-A-I. Hai Ho. And
20 my wife's name is Ha Tran. But she go to hospital
21 today, so she, you know, that's where she been.

22 MR. JOCHUMS: Okay. Let's -- I don't believe
23 you were sworn, were you?

24 MR. HAI: My wife, too, Ha Tran?

25 MR. JOCHUMS: No, we need to swear you in as a

1 witness.

2 COURT REPORTER: Do you swear or affirm the
3 testimony that you're about to give is the truth, the
4 whole truth, and nothing but the truth?

5 MR. HAI: Yes.

6 MR. JOCHUMS: Do you have a name that we're
7 supposed to call you?

8 MR. HAI: No, I don't have name. Just call Hai.
9 Hai.

10 MR. JOCHUMS: Hai?

11 MR. HAI: Yes.

12 MR. JOCHUMS: Okay. You're here today because
13 you received a notice in the mail about this. And
14 you were talking about your wife before, what is your
15 name?

16 MR. HAI: Ha Tran. H-A and Tran, T-R-A-N.

17 MR. JOCHUMS: Oh, okay. I was looking at the
18 wrong number. This is the number 06-039. And you
19 have a business called Great Nails?

20 MR. HAI: Yes.

21 MR. JOCHUMS: Inspector Bland, you've been
22 previously sworn. Tell us about your involvement
23 with Great Nails in Magnolia, Arkansas that led to
24 today's hearing.

25 MS. BLAND: Yes, sir. On July 2, -- oh, I'm

1 sorry. That was in 2003. Mr. Hai did not own the
2 salon at that time. I believe it would be May 20,
3 2005 would be my most recent visit for this
4 violation. Mr. Hai's wife was working in the salon
5 and she was unlicensed. She has come before our
6 Board, not our Board, but our examination three
7 different times and they had come one time previous
8 and she could not pass our exam. So she went to
9 Texas and passed their exams. Is that correct?

10 MR. HAI: Yes. She go to school in Texas.

11 MS. BLAND: And she got her time in in Texas and
12 passed their exam. And applied for reciprocity. So,
13 but the time that I went by, she had not received her
14 license.

15 MR. JOCHUMS: This would be May of 2005?

16 MS. BLAND: May 20th, I believe.

17 MR. JOCHUMS: And on that particular day, did
18 you observe doing something?

19 MS. BLAND: Yes, she was doing nails.

20 MR. JOCHUMS: She was doing nails?

21 MS. BLAND: Yes.

22 MR. JOCHUMS: Was there anyone else in the
23 salon?

24 MS. BLAND: Just Mr. Hai.

25 MR. JOCHUMS: Okay. So they both work in the

1 salon?

2 MS. BLAND: Yes. Now I understand that -- and I
3 did see his paperwork, but I only write down what I
4 observe. But he did have his paperwork where he had
5 sent the license into Texas and had his receipt and
6 all I'm not sure if our Board had --

7 MR. HAI: Mar -- March 22, '05.

8 MS. BLAND: Right. But she had not been lic --
9 she had not received her reciprocity from Texas yet
10 on the day that I was in there. But she had gone and
11 was licensed in the state of Texas, but she had not
12 been properly licensed in Arkansas.

13 MR. HAI: But she got -- June 1 --

14 MS. BLAND: Right.

15 MR. JOCHUMS: When did you start operating this
16 shop?

17 MR. HAI: I think it around two years. Two year
18 -- two year, couple of months.

19 MR. JOCHUMS: What did he say?

20 MR. HAI: Two years and --

21 MS. BLAND: Two years.

22 MR. JOCHUMS: So about two years?

23 MR. HAI: Yes.

24 MR. JOCHUMS: Okay. And who had it before you?

25 MR. HAI: I think the -- I buy from the guy --

1 MS. BLAND: Yes, they had some violations
2 previous to him, too.

3 MR. JOCHUMS: Now had you worked for the
4 previous owner?

5 MR. HAI: (Aside to Ms. Bland.) What mean?

6 MS. BLAND: You didn't work for the --

7 MR. HAI: For the people before?

8 MS. BLAND: Right.

9 MR. HAI: No.

10 MS. BLAND: I didn't think so.

11 MR. JOCHUMS: Before you bought this shop, did
12 you live in Magnolia?

13 MR. HAI: Yes.

14 MR. JOCHUMS: If you want to ask the Inspector
15 any questions, you can do that. And you can also
16 talk to the Board, if you don't have any questions
17 you need to ask her about the charges. And you
18 understand that the charge is that your wife was
19 doing nails when she didn't have a license.

20 MR. HAI: But I mean -- I got a question because
21 she go to -- in Texas. She finished school around
22 like Christmas time. So she went for -- in Texas
23 like March 17, she go to Texas, over there. And she
24 paid and we got the letter for mail in \$41.00 for got
25 the license. And we mailed the money, everything in

1 there. And they don't check for us the license. And
2 I keep calling and they say they did the -- high
3 school diploma. But we ready -- we get teacher and
4 teacher change everything for department. But they
5 said they need one more because it like two
6 departments. They need one more for copy of diploma
7 high school. At that time I don't have the other
8 copy. So I have to mail back to -- like a travel
9 agent for me and go back to Texas. And the license
10 come later on, like a month later. They sent to us
11 like, how they mail something, May -- May 10. And
12 then I send in Arkansas. So ten day later the
13 paperwork don't come in yet. I don't have receipt.
14 So that's why you come. You come the 20 and I got
15 the -- it says in Arkansas to check and print.

16 MS. BLAND: When I was at Mr. Hai's shop, in all
17 fairness to him, she's not lic -- she wasn't
18 licensed. He had all his paperwork from Texas and
19 was working very diligently to get all the stuff that
20 they needed for Arkansas to get her license.

21 MR. HAI: It take too long.

22 MR. JOCHUMS: Where did she go to high school?

23 MR. HAI: She go to high school Vietnam. She
24 had only about one and half year.

25 MR. JOCHUMS: And so you came to -- the U.S.

1 after you went to high school.

2 MR. HAI: Since she finished in high school in
3 Vietnam.

4 MS. BLAND: She had passed her exam March 22nd
5 in Texas. And I was there May 20th and her papers
6 have not come yet.

7 MS. WITTUM: So are we still waiting on --

8 MS. BLAND: No, she is licensed now. She -- I
9 don't --

10 MR. HAI: She got the license number on June 1 -
11 -

12 MS. BLAND: June 1st, she got her Arkansas
13 license. And I was there May 20th. So they had all
14 the paperwork in place and I just got there a couple
15 of weeks early.

16 (Chorus of laughter.)

17 MS. POWELL: Had she put in the reciprocity
18 paperwork?

19 MS. WITTUM: That's what Pat's saying. She had
20 completed that, so she is now licensed.

21 MS. BLAND: Yeah, she was licensed June 1st.

22 MR. JOCHUMS: Okay. Whatever the Board wants to
23 do with it, she did not have a license at the visit.

24 MR. DOWNEY: I do know that the state of Texas
25 has had their problems with their state Board. In

1 fact, I understood it's in the process of abolishing
2 it.

3 MS. WITTUM: No, they're not abolishing it.
4 They're transferring it from one state agency to
5 another.

6 MR. DOWNEY: And they really have had -- well,
7 historically, they've had problems with their
8 paperwork.

9 MS. WITTUM: It has been very difficult for our
10 office staff to get the documentation to finish up
11 the reciprocity coming from Texas.

12 MR. DOWNEY: And had they been as efficient as
13 the Arkansas office he probably -- she probably would
14 have had her license at that visit.

15 MR. KEENE: Sherron.

16 MS. WEST: Well, I think that there has been
17 insufficient evidence to support the charges filed
18 against the respondent in this matter. I move that
19 this matter be dismissed.

20 MR. KEENE: I have a motion. Do I have a
21 second?

22 (No response.)

23 MR. KEENE: Hearing no second, the motion fails.
24 Mitzie?

25 MS. MCKINNEY: I would like to make a motion

1 that we dismiss given that he, in my opinion, has
2 proved that they were in the process of getting the
3 license and it was just a matter of having to wait on
4 the Board. Because it was 2 weeks that we're talking
5 about. And that the paperwork had been done. There
6 was a mail problem and a paperwork --

7 MR. KEENE: What is your motion?

8 MS. MCKINNEY: I'd like to make a motion that we
9 dismiss these charges.

10 MS. GRAY: Second.

11 MR. KEENE: I have a motion and a second. Any
12 discussion?

13 (No response.)

14 MR. KEENE: All in favor?

15 (Vote by show of hands.)

16 MR. KEENE: Any opposed?

17 (No hands raised.)

18 MR. KEENE: Motion carries. Now what was the
19 difference in hers and yours?

20 MS. MCKINNEY: That there was evidence. Hers
21 said there was insufficient evidence, but there had
22 been evidence.

23 MR. JOCHUMS: Let me ask the Board a question.
24 We have a related case. This is the wife, Ha Tran,
25 who requested a continuance due to a medical problem.

1 Do you want to go ahead and dismiss that one, too?
2 Take it off the docket or do you want to have her
3 come visit with you?

4 MR. DOWNEY: I think we should look at it
5 individually. I don't think we should just blindly
6 give them off.

7 MS. WITTUM: 06-040.

8 MR. DOWNEY: It's not the same person, is it?

9 MR. KEENE: It's the same offense.

10 MS. BLAND: Right. It was his wife.

11 MS. POWELL: She was the unlicensed person. He
12 was the one that hired her.

13 MR. KEENE: What you're saying by doing that is
14 that you're saying that the salon owner can do what
15 they want. They can anybody in there unlicensed
16 working, but the licensed -- the unlicensed person is
17 the one that might get in trouble?

18 MS. MCKINNEY: She should be heard. I mean, in
19 my opinion, she should be heard.

20 MR. KEENE: Do we have another hearing?

21 MS. WITTUM: Well, we have one more person, but
22 I don't know if they're here.

23 MR. JOCHUMS: We've got one more to do. And I'm
24 going to go ahead and call the case, In the matter of
25 D-I-N-H, N-H-T-O-A-N, No. 06-009. This case alleges

1 a person performed cosmetological services without a
2 license. And the person was notified that there
3 would be a hearing and our inspector is here as a
4 witness. State your name and tell us what this is
5 about.

6 MS. HORNER: Rose Horner. I went into Magic
7 Nails in Bentonville on June 17th of this year. And
8 there was someone working. I asked for photo ID and
9 he could not produce anything, any type of photo ID.
10 And he was -- he was working. He was doing a
11 manicure or nails.

12 MR. JOCHUMS: How did you figure out what his
13 name was?

14 MS. HORNER: I believe he -- actually, I don't
15 have my inspection forms. So I don't know what it --
16 you know, I don't know what was on it. I believe the
17 owner told me and spelled it, spelled his name for
18 me. You know, there were two people. Vu -- whatever
19 Vu, had an Oklahoma license. And this other one --
20 neither one could produce photo ID. And they said
21 they had sent forms for reciprocity. But the owner
22 spelled the name of this -- the second person.

23 MR. JOCHUMS: And you observed him doing --

24 MS. HORNER: Both them, yes.

25 MR. JOCHUMS: Any questions from the Board?

1 MR. DOWNEY: Has the salon come up for hearings
2 or are they coming up for a hearing?

3 MS. WITTUM: It looks like this gentleman and
4 Mr. Vu, were both penalized. Mr. Vu paid his civil
5 penalty on September 14. He also submitted the
6 necessary reciprocity paperwork and is now -- he has
7 applied for examination. But I don't have any record
8 of the salon being penalized.

9 MR. DOWNEY: Why was the salon not cited?

10 MS. WITTUM: That would be our office doing
11 that. Linda had prepared all of these in advance of
12 her leaving. I just picked them up and started
13 working with them today, so I don't -- don't know why
14 she --

15 MR. KEENE: That doesn't mean that they weren't.
16 They may have been at the last hearing. We may have
17 already dealt with that. The salon may have paid
18 their fine and it's listed here in the list. Could
19 be.

20 MS. TRAYLOR: Okay. Finding the allegations
21 being true, I move to order the respondent to pay a
22 fine in the amount of \$450.00, payable within thirty
23 days of the receipt of the Board's order. Further,
24 the respondent is ordered to cease and desist from
25 practicing cosmetology or operating a cosmetology

1 establishment until such time the respondent is
2 properly licensed by the Board.

3 MS. POWELL: Second.

4 MR. KEENE: I have a motion by Veda. And a
5 second by Jane. Any more discussion?

6 (No response.)

7 MR. KEENE: All in favor?

8 (Vote by show of hands.)

9 MR. KEENE: It's unanimous. That's the end of
10 the hearings. I think we're going to the Blessing
11 now.

12 MR. JOCHUMS: Sure. Okay. Board members, you
13 have before you an agenda that includes a section
14 entitled "Respondents who have waived their right to
15 a hearing:". There's a case number, the licensee or
16 establishment name, and a fine column. Each of those
17 are different. We're going to provide the court
18 reporter a copy of these so we won't actually read
19 through all of them. Each of these individuals or
20 firms has written the Board that they don't desire to
21 Kathy that they waive their hearing and they've also
22 paid their fines. Is that right?

23 MS. WITTUM: Yes, there's one that has been set
24 up on a payment plan.

25 MR. JOCHUMS: Okay. Or at least been put on a

1 payment plan at this point. So we ask that you
2 approve this.

3 MR. KEENE: I need a motion.

4 MS. POWELL: I move.

5 MS. MCKINNEY: I second.

6 MR. KEENE: Jane moves and Mitzie seconded that
7 we approve these. Any discussion?

8 (No response.)

9 MR. KEENE: All in favor?

10 (Vote by show of hands.)

11 MR. KEENE: It's unanimous. Now, next on the
12 agenda is the Financial Report. You all received in
13 your packet today. I hope you've had an opportunity
14 to go over it. If you have any questions? It's a
15 little different format than we're used to.

16 MS. WITTUM: You should have the last quarter
17 statement for year '05 and then this is the one that
18 Linda prepared prior to her leaving. It's not --
19 yours is not color-coded one. It's black and white.
20 I didn't have a way of making color copies. And I
21 did change the format. The first quarter in say,
22 fiscal year '06, is what's on this one. It gives you
23 the July, August, and September totals so far in
24 September. If you don't want this much information,
25 then you can let me know. I believe -- I believe

1 Linda calculated this by taking -- taking what's in
2 our spreadsheet, combining some of the totals and
3 then putting them in summary form here. I broke it
4 down, so that if you look through it you can look at
5 the exact appropriations and see exactly what has
6 been appropriated minus what we have spent in those
7 three months. And it gives you an ending balance of
8 what we have left so far in the appropriations. And
9 if you'll just look at it and let me know if you
10 don't want this much information, then I'll modify
11 it. I usually will inform people to death, so
12 just let me know if you want to change it. I will
13 tell you that I have -- I'm supposed to be meeting
14 with the people at the Department of Finance and
15 Administration in the accounting department to find
16 out more about the monthly reports that they send
17 over. There are things on the monthly reports that
18 are not showing up on our appropriation sheets. So
19 I'm going to have to educate myself on exactly what
20 they include on our monthly reports so that I'll be
21 able to better reconcile those. And hopefully I'll
22 know more about that whole process by the next time
23 we meet. Does anybody have any questions about?

24 MS. POWELL: I didn't have one in my packet.

25 MS. WITTUM: Well, actually --

1 MR. KEENE: I'm going to have to think about
2 this -- this format a little bit.

3 MS. WITTUM: Please do.

4 MR. KEENE: And I'll call you and let you know
5 what I think. I'm just -- I'm used to this financial
6 report here of totals with a printout of where the
7 money has been spent by voucher instead of a total.
8 Basically I see how each check is written or each
9 voucher is written when I do that. So this is -- I'm
10 going to have to absorb -- look at this a little bit
11 and absorb it.

12 MS. WITTUM: Just so you know this spreadsheet
13 that you have -- you have the quarterly totals from -
14 - those come from the daily totals. I have a
15 spreadsheet for July, a separate spreadsheet for
16 August, and a separate one for September and
17 throughout the year. As I enter the payouts for each
18 of those months or the deposits that are made, it
19 automatically updates this quarterly and annual sheet
20 that you'll be getting, so it's not -- you're not
21 seeing an actual breakdown of the different checks
22 and stuff that are written, you're going to see in
23 the totals. I can give you a breakdown of the checks
24 and the deposits and all that stuff if you want it.
25 Also on the very back sheet there is -- I don't know

1 how much y'all know about the accounts, but we have
2 two accounts. There is the state treasurer account.
3 There's also the cash fund account. All of this
4 that's color-coded and broken down, that's the state
5 treasurer account. That's pretty much what we
6 operate in for the most -- for most of our business.
7 The bottom -- the back sheet is the cash fund and
8 there are some deposits that are made specifically
9 into the cash fund and there are some payouts that
10 come strictly from the case fund and not the state
11 treasurer. So that's the difference from that back
12 sheet and the rest of it.

13 MR. KEENE: And I noticed on -- this sheet, that
14 in the -- on the back page, the board member
15 allotment -- we went over by a little more than
16 \$1300.00; is that correct?

17 MS. WITTUM: Yes, I believe so.

18 MR. KEENE: We spent --

19 MS. WITTUM: For that quarter.

20 MR. KEENE: We spent more than was appropriated

21 --

22 MS. TRAYLOR: That's for one quarter.

23 MR. KEENE: No, that's at the end.

24 MS. WITTUM: For one quarter. You see -- it's
25 strictly for the quarter.

1 MR. KEENE: Okay.

2 MS. WITTUM: That's strictly --

3 MR. KEENE: We finished out this budget -- this
4 annual budget --

5 MS. WITTUM: A little bit over.

6 MR. KEENE: We spent more than we were
7 appropriated by a little more than \$1300 dollars. I
8 don't think that surprises any of us. I think we
9 kind of knew that was going to happen because we're
10 doing so many more exams now -- and it happened last
11 time, too. We went over more than what was
12 appropriated by -- so, I think that with what all has
13 happened that it was pretty good. We only went over
14 \$1300. I would have thought more. And of course
15 when Kathy gets to create this next budget, right? I
16 think she's going to be asking for more money in that
17 area.

18 MS. WITTUM: We may not get it but we'll ask.

19 MR. KEENE: Because it looks to me from, like,
20 the enrollment that we've got for our schools is up
21 even more.

22 MS. WITTUM: It is.

23 MR. KEENE: So we'll even be doing more exams.
24 And if we already went over, we're definitely going
25 to over again.

1 MS. WITTUM: There's also the cost of gas that
2 is increasing on the mileage for, not just the Board
3 members, but also the administration.

4 MR. KEENE: And that -- that wasn't built into
5 the budget, either. So, I'm really surprised we
6 didn't go over more than that. We need a motion to
7 approve the financial report.

8 MS. TRAYLOR: I so move.

9 MS. TURMAN: Second.

10 MR. KEENE: Do we -- still need to sign them?

11 MS. WITTUM: Yeah, just to keep us --

12 MS. TRAYLOR: I move that we accept the
13 financial report as presented by Kathy.

14 MS. TURMAN: Second.

15 MR. KEENE: I have a motion and a second. All
16 in favor?

17 (Vote by show of hands.) (Unanimous.)

18 MS. WITTUM: You don't have to sign it.

19 MR. KEENE: Next is the treasurer's report.

20 MS. POWELL: Oh.

21 MS. TRAYLOR: Do we have any money, Jane?

22 MR. KEENE: We've got more than we expected.

23 MS. POWELL: Well, okay. Our last meeting, we
24 on 7/18/05 -- we had a balance of \$153.52. On 7/18,
25 prior to or at the meeting, we had decided that the

1 Board would send a gift to Ms. Whitlow as a
2 retirement gift. That was a purchase of a gift card
3 from Hobby Lobby for her sewing, \$50.00, leaving us a
4 balance of \$103.52. Veda Traylor, on 7/18 purchased
5 MIC gift. That was a \$50.00 gift for MIC. That left
6 us a balance of \$53.52. Also, on 7/18/05, we had
7 coffee cups purchased for \$2.15, leaving us a balance
8 of \$51.37. On August 5, the gift card was returned
9 to the treasurer with a note, "All Board members,
10 Thank you, but I can't accept this. - Linda Whitlow."
11 So the card was returned so, as of today, Ms. Traylor
12 and I have decided to split the card. We've
13 purchased each \$25.00 of it, so we could reimburse
14 the treasurer. So after our dues were collected
15 today of \$45.00 and then the \$50.00 put back into the
16 fund, we have a balance of \$146.37.

17 MR. KEENE: Do I have a motion to accept the
18 treasurer's report?

19 MS. WEST: I so move.

20 MS. MCKINNEY: Second.

21 MR. KEENE: I have a motion by Sherron and a
22 second by Mitzie. Any discussion?

23 (No response.)

24 MR. KEENE: All in favor?

25 (Vote by show of hands.)

1 MR. KEENE: Motion carries. Next on the agenda
2 is the election of officers. I'm going to get out of
3 here.

4 MS. POWELL: Well, I might say that if anybody
5 wants anything from Hobby Lobby.

6 (Chorus of laughter.)

7 MS. TRAYLOR: I can go buy something at Hobby
8 Lobby.

9 (Chorus of laughter.)

10 MS. MCKINNEY: Did we hear the petitions over
11 here?

12 MR. JOCHUMS: They got them.

13 MS. WITTUM: Tracy spoke during the public
14 hearing this morning about her issues. Angela Hill,
15 the esthetician asked to be postponed until November.
16 Her dad is ill and she was not going to be able to
17 travel in today.

18 MR. KEENE: The -- Kathy, at this time -- I've --
19 -- removed myself from the president's chair, so you
20 can start the elections now at this time.

21 MS. WITTUM: Okay. Do y'all normally do it by
22 ballot or nominees or --

23 MR. KEENE: Typically somebody would make a
24 motion -- or would nominate someone. They would
25 either accept or decline. Then nominations would be

1 closed after everyone's had an opportunity and then a
2 vote would be taken. It's up to the Board and a vote
3 would be taken there as to whether you want it done
4 by ballot or raise of hands or what.

5 MS. WITTUM: Do y'all normally start bottom-up
6 going --

7 MS. TRAYLOR: Huh-uh. Top down.

8 MR. KEENE: Top down.

9 MS. WITTUM: Okay. Are there any nominees for
10 president?

11 MR. KEENE: I would nominate Jane.

12 MS. TRAYLOR: I second.

13 MS. MCKINNEY: I'd like to move that the
14 nominations cease.

15 MS. WEST: Second.

16 MS. TRAYLOR: All in favor?

17 (Vote by show of hands.) (Unanimous.)

18 MR. KEENE: You only had one nomination.

19 MS. WITTUM: It's going to hard for y'all to
20 vote unless you're all going to vote for Jane. So
21 all in favor for Jane to be the next president.

22 MR. KEENE: Jane, did you accept the nomination?

23 (Chorus of laughter.)

24 MS. WITTUM: Yes, she did.

25 MS. MCKINNEY: Yes, she did.

1 MS. POWELL: Yes.

2 MR. KEENE: This isn't MIC, we can applaud.

3 (Applause.)

4 BOARD MEMBERS: You get to go now. You can take
5 over and run the elections.

6 MS. POWELL: Let me just say -- I have one thing
7 I'd like to say. I feel that I've taken this
8 position kind of as a default.

9 (Chorus of laughter.)

10 MS. POWELL: I think we all know who we would
11 like to have had this year, but we weren't able to.
12 But I have -- I'm just glad that Cliff has been a
13 good leader for two years and I appreciated his
14 terms.

15 MR. KEENE: Thank you very much. Now, you've
16 got first vice.

17 MS. WITTUM: Okay. Nominees for first vice-
18 president?

19 MR. KEENE: I haven't spoken to anybody just to
20 find out who's interested so I don't know.

21 MS. GORDON: Cliff.

22 MS. WITTUM: Is that the position that --

23 MS. GORDON: I nominate Cliff for second vice-
24 president.

25 MR. KEENE: Second?

1 MS. GORDON: First -- I'm sorry.

2 MS. WEST: Second.

3 MS. WITTUM: Any other nominees for first vice-
4 president?

5 MS. GRAY: I move that the nominations cease.

6 MS. WITTUM: Cliff, do you accept first vice-
7 president?

8 MS. POWELL: Stuck again.

9 MR. KEENE: I will accept.

10 (Chorus of laughter.)

11 MR. KEENE: Yes, I'll take it. Where do I have
12 to go now?

13 MS. WITTUM: Second vice-president? Any
14 nominees?

15 MR. KEENE: I don't know. Who wants it? Pat?

16 MS. TURMAN: No.

17 MS. GORDON: I nominate Nick Downey.

18 MS. TURMAN: That's who I was going to nominate
19 so.

20 MS. POWELL: We have Nick Downey as a
21 nomination.

22 MS. WITTUM: Any other nominations?

23 MS. GRAY: I move that the nominations cease.

24 MR. KEENE: Second.

25 MS. WITTUM: Secretary. Nominees?

1 MS. TURMAN: I nominate Veda.

2 MS. WITTUM: Any other nominees?

3 MS. WEST: I move that nominations cease.

4 MS. WITTUM: Veda, do you accept?

5 MS. TRAYLOR: I really don't want to, but I
6 guess I will

7 MS. POWELL: She has such pretty penmanship.

8 MS. WITTUM: Treasurer, nominees?

9 MS. GORDON: I'm the nominating person over
10 here, but I nominate Mitzie.

11 MS. TURMAN: I second that.

12 MS. POWELL: She has to take the Hobby Lobby
13 card.

14 (Chorus of laughter.)

15 MS. WITTUM: Mitzie, do you accept?

16 MS. MCKINNEY: I do.

17 MS. WITTUM: All of the officers have been
18 elected. Very good.

19 MR. KEENE: Do we need a motion to that effect?
20 I don't think so, but --

21 MS. TRAYLOR: No.

22 MR. KEENE: Then the only thing you had left on
23 your agenda was "Katrina".

24 MS. WITTUM: Yes. We were requested by the
25 Governor's office to give consideration to the

1 victims of Hurricane Katrina who are coming from
2 Mississippi and Louisiana into Arkansas. And I'll
3 read this letter that the chief legal counsel, Milton
4 Fine, sent over to us. It's addressed to me, at the
5 board. "This letter is to confirm our conversation,
6 (this date), that per the emergency powers act,
7 specifically ACA § 12-75-114. The Governor has
8 authorized the waiver of reciprocity fees by the
9 Cosmetology Board to those applicants that have been
10 displaced by Hurricane Katrina. If you have any
11 questions, please give our office a call."

12 MS. WITTUM: Currently, we have had ten
13 reciprocity victims come through. We are having them
14 sign affirmation notices just confirming that they
15 are victims of the hurricane. We also have a list
16 that we downloaded from FEMA's webpage that
17 identifies the counties that were affected in
18 Mississippi and Louisiana that we're checking as much
19 as possible to make sure that the victims are coming
20 from those particular areas. They were given until
21 January 31st, basically a temporary license. Between
22 now and January 31, we will obtain the information
23 that's needed to verify that they did, in fact,
24 qualify for reciprocity. If at that date we are not
25 able to get all that documentation, their licenses

1 are no longer valid. But they are being waived the
2 reciprocity fees.

3 MR. KEENE: So --

4 MS. POWELL: If there is no objection, the
5 meeting will adjourn.

6 MS. TRAYLOR: Did we agree to do this?

7 MR. KEENE: We don't have a choice.

8 MR. DOWNEY: We don't have a choice.

9 MS. WITTUM: The Governor's office has informed
10 us that they waived that reciprocity fee.

11 MS. TRAYLOR: Oh. Well, good.

12 MS. POWELL: Hearing no objections, the meeting
13 is adjourned.

14 (Thereupon the meeting was concluded.)

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CLAIM NO. 05-184

BOARD'S EXHIBIT NO. 1

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CLAIM NO. 05-184

BOARD'S EXHIBIT NO. 2

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CLAIM NO. 05-184

BOARD'S EXHIBIT NO. 3

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CLAIM NO. 05-184

BOARD'S EXHIBIT NO. 4

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CLAIM NO. 05-184

RESPONDENT'S EXHIBIT NO. 1

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CLAIM NO. 05-184

RESPONDENT'S EXHIBIT NO. 2

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CLAIM NO. 05-184

RESPONDENT'S EXHIBIT NO. 3

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CLAIM NO. 05-184

RESPONDENT'S EXHIBIT NO. 4

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CLAIM NO. 05-184

RESPONDENT'S EXHIBIT NO. 5

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CLAIM NO. 05-184

RESPONDENT'S EXHIBIT NO. 6

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CLAIM NO. 05-194

BOARD'S EXHIBIT NO. 1

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CLAIM NO. 06-039

BOARD'S EXHIBIT NO. 1

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CLAIM NO. 06-009

BOARD'S EXHIBIT NO. 1

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