

# **COMPLIANCE DIVISION REPORT**

## ***Barber Advisory Board Meeting***

November 13, 2017

### **Public Outreach**

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- Compliance has also attended the following trade shows since the last advisory meeting. Elizabeth Perez, Marinela La Fleur, David Gonzales, Irma Mendoza, Keitha Chester and Brian Francis have contributed at some point with our outreach efforts at the shows. We answer industry related questions; provide information on license renewals, and provide any other assistance asked of us. Facebook and Twitter have also been used to let the industry know we were there and increase our interaction with participants.

Armstrong McCall World's Fair – October 1-2, at the San Antonio Convention Center.

The 73<sup>rd</sup> NBCL- Texas State Association & Beauty Culturist's League, October 8-9, at the Holiday Inn Plaza in Beaumont.

Image Expo, November 12-13, at the Kay Bailey Hutchison Convention Center in Dallas.

### **Upcoming Trade Shows**

### **Compliance Efforts/Statistics**

- Elizabeth and Marinela continue to assist Enforcement, Field Operations staff, and Customer Service with questions that arise during investigations, inspections, as well as addressing daily industry inquiries/emails. We continue our participation in monthly BAR/COS taskforce meetings.

**ADVISORY BOARD ON BARBERING**

 NOVEMBER 13<sup>th</sup>, 2017

**RECENT ACCOMPLISHMENTS AND CURRENT PROJECTS**
**EDUCATION, EXAMINATION, & SCHOOL SERVICES**
**HURRICANE HARVEY UPDATES FROM E&E**

We notified 219 high schools, private schools and colleges with instructions on the process to report hours that are being waived for missed school days. We have currently received 34 responses from those schools, which affected approximately 910 students. We know that 10,032 students are in areas that were affected by Hurricane Harvey. We received confirmation from 39 schools, that they are open and holding classes.

We are in the process of finding new schools to take on displaced students; so far, the count of misplaced students is 47. We had 4 schools that closed due to severe damage caused by Harvey; 3 schools are holding class in a temporary location. As of September 28<sup>th</sup>, we have received a total 246 emails in connection to Harvey.

Eligibilities were extended 60 days for candidates that were affected by Harvey. We had 5 PSI sites in Houston and Corpus Christi that were temporarily closed due to Harvey.

**TOTAL E-MAIL ANSWERED BY STAFF**

 (AS OF SEPTEMBER 30<sup>th</sup>, 2017)

<b>MONTH</b>	<b>FY 2018</b>	<b>FY 2017</b>	<b>FY 2016</b>	<b>FY 2015</b>
September	1,545	1,158	1,389	
October		1,263	1,060	
November		744	996	
December		653	760	
January		955	1,060	
February		974	1,047	
March		1,463	994	
April		981	966	
May		1,140	1,061	
June		1,747	911	
July		804	767	835
August		1,266	1,123	1,104
<b>TOTAL</b>	<b>1,545</b>	<b>13,148</b>	<b>12,134</b>	<b>1,939</b>

## **SCHOOL INSPECTIONS/SITE VISITS**

We now have 2 Barber Programs located in a public school ...

- RGCCISD Grulla High School – La Grulla Texas
- James Earl Rudder High School – Bryan Texas

## **PERSONNEL UPDATE**



On September 1<sup>st</sup>, we welcomed Lisa McDonald to E&E from Compliance. Lisa has been with the TDLR for 9 years. Lisa worked as a Program Specialist for the Service Contract Providers, Property Tax Professionals, Property Tax Consultants, Polygraph Examiners, Professional Employer Organizations, For-Profit Legal Services programs.



## BARBER INSPECTION STATISTICS

(As of SEPTEMBER 30<sup>th</sup>, 2017)

2018	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
North	3	0	0	3	0	0	0	0	0	0	0	0	0	0	0	0	3
South	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1
East	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
West	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Initial	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Total	6	0	0	6	0	0	0	0	0	0	0	0	0	0	0	0	6

2017	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
North	1	0	0	1	6	8	7	21	4	4	9	17	7	6	0	13	52
South	2	2	1	5	2	11	2	15	2	0	2	4	6	1	4	11	35
East	10	0	3	13	0	2	6	8	10	1	6	17	2	2	4	8	46
West	2	2	4	8	0	3	5	8	2	2	3	7	3	1	1	5	28
Initial	0	0	0	0	0	2	0	2	0	1	0	1	0	0	0	0	3
Total	15	4	8	27	8	26	20	54	18	8	20	46	18	10	9	37	164

2016	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
North	4	1	1	6	8	3	3	14	3	2	4	9	0	0	0	0	29
South	5	3	4	12	0	1	4	5	6	0	1	7	9	6	1	16	40
East	10	2	0	12	2	2	7	11	12	1	0	13	3	2	10	15	51
West	1	1	0	2	0	4	0	4	2	0	5	7	5	2	1	8	21
Initial	0	0	1	1	0	0	1	1	2	2	1	5	3	0	1	4	11
Total	20	7	6	33	10	10	15	35	25	5	11	41	20	10	13	43	152

**EXAMINATION LICENSE TYPES STATISTICS**  
**FY - 2017**

LICENSE TYPE	PASS	FAIL	TOTAL	RATE	LICENSE TYPE	PASS	FAIL	TOTAL	RATE
<b>1<sup>ST</sup> QUARTER</b>					<b>2<sup>ND</sup> QUARTER</b>				
CLASS A WRITTEN	315	338	654	48.32%	CLASS A WRITTEN	287	313	600	47.83%
CLASS A PRACTICAL	242	62	304	79.61%	CLASS A PRACTICAL	266	22	288	92.36%
MANICURIST WRITTEN	1	1	2	50.00%	MANICURIST WRITTEN	0	1	1	0%
MANICURIST PRACTICAL	0	0	0	0%	MANICURIST PRACTICAL	1	0	1	100.00%
TECHNICIAN WRITTEN	0	0	0	0%	TECHNICIAN WRITTEN	0	0	0	0%
TECHNICIAN PRACTICAL	0	0	0	0%	TECHNICIAN PRACTICAL	0	0	0	0%
HAIRWEAVING WRITTEN	2	1	3	66.67%	HAIRWEAVING WRITTEN	0	0	0	0%
HAIRWEAVING PRACTICAL	1	0	1	100.00%	HAIRWEAVING PRACTICAL	2	0	2	100.00%
TECH/MANI WRITTEN	0	0	0	0%	TECH/MANI WRITTEN	0	0	0	0%
TECH/MANI PRACTICAL	0	0	0	0%	TECH/MANI PRACTICAL	0	0	0	0%
TECH/HAIRWEAV WRITTEN	0	0	0	0%	TECH/HAIRWEAV WRITTEN	1	0	1	100.00%
TECH/HAIRWEA PRACTICAL	0	0	0	0%	TECH/HAIRWEA PRACTICAL	0	0	0	0%
INSTRUCTOR WRITTEN	17	26	43	39.53%	INSTRUCTOR WRITTEN	11	14	25	44.00%
INSTRUCTOR PRACTICAL	9	4	13	69.23%	INSTRUCTOR PRACTICAL	11	3	14	78.57%
<b>TOTAL</b>	<b>588</b>	<b>432</b>	<b>1,020</b>	<b>57.65%</b>	<b>TOTAL</b>	<b>579</b>	<b>353</b>	<b>932</b>	<b>62.12%</b>
LICENSE TYPE	PASS	FAIL	TOTAL	RATE	LICENSE TYPE	PASS	FAIL	TOTAL	RATE
<b>3<sup>RD</sup> QUARTER</b>					<b>4<sup>TH</sup> QUARTER</b>				
CLASS A WRITTEN	345	383	728	47.39%	CLASS A WRITTEN	320	382	702	45.58%
CLASS A PRACTICAL	305	38	343	88.92%	CLASS A PRACTICAL	261	30	291	89.69%
MANICURIST WRITTEN	1	0	1	100.00%	MANICURIST WRITTEN	3	1	4	75.00%
MANICURIST PRACTICAL	0	0	0	0%	MANICURIST PRACTICAL	3	0	3	100.00%
TECHNICIAN WRITTEN	0	0	0	0%	TECHNICIAN WRITTEN	0	0	0	0.00%
TECHNICIAN PRACTICAL	0	0	0	0%	TECHNICIAN PRACTICAL	0	0	0	0.00%
HAIRWEAVING WRITTEN	1	0	1	100.00%	HAIRWEAVING WRITTEN	0	0	0	0.00%
HAIRWEAVING PRACTICAL	0	0	0	0%	HAIRWEAVING PRACTICAL	1	0	1	100.00%
TECH/MANI WRITTEN	0	0	0	0%	TECH/MANI WRITTEN	0	0	0	0.00%
TECH/MANI PRACTICAL	0	0	0	0%	TECH/MANI PRACTICAL	0	0	0	0.00%
TECH/HAIRWEAV WRITTEN	1	0	1	100.00%	TECH/HAIRWEAV WRITTEN	0	0	0	0.00%
TECH/HAIRWEA PRACTICAL	2	0	2	100.00%	TECH/HAIRWEA PRACTICAL	0	0	0	0.00%
INSTRUCTOR WRITTEN	1	29	39	25.64%	INSTRUCTOR WRITTEN	9	17	26	34.62%
INSTRUCTOR PRACTICAL	5	1	6	83.33%	INSTRUCTOR PRACTICAL	13	2	15	86.67%
<b>TOTAL</b>	<b>670</b>	<b>451</b>	<b>1,121</b>	<b>59.5%</b>	<b>TOTAL</b>	<b>610</b>	<b>432</b>	<b>1,042</b>	<b>58.54%</b>

# **ADVISORY BOARD ON BARBERING**

## **Enforcement Division Staff Report**

**November 13, 2017**

### **Case Highlights**

#### **Case No. BAR20170018597**

- ❖ On September 15, 2017, the Executive Director signed an agreed order that finalized the settlement agreement between the Department and Jose Landa d/b/a Acalpulco Barber Shop.
  - ◆ As part of this negotiated settlement, Respondent accepted liability for the following violations:
    - Allowing an unlicensed individual to perform barbering on the premises of Acalpulco Barber Shop; and
    - Failing to ensure that all representatives of Acalpulco Barber cooperated with the Department Inspector during the inspection (two separate violations).
  - ◆ To resolve these violations, Respondent agreed to pay an administrative penalty of \$3,375.

#### **Case No. BAR20170017108**

- ❖ On September 18, 2017, the Executive Director signed an agreed order that finalized the settlement agreement between the Department and Rafail Berastain d/b/a Estilos Barber Shop.
  - ◆ As part of this negotiated settlement, Respondent accepted liability for the following violation:
    - Allowing an unlicensed individual to perform barbering on the premises of Estilos Barber Shop (two separate violations).
  - ◆ To resolve these violations, Respondent agreed to pay an administrative penalty of \$2,250.

#### **Case No. BAR20170018739**

- ❖ On October 4, 2017, the Executive Director granted the Department's Motion for Default against Juan Carlos Santiago.

- ◆ The default order found Respondent liable performing barbering without a license, and assessed an administrative penalty of \$1,500.

**Case No. BAR20170018766**

- ❖ On September 15, 2017, the Executive Director signed an agreed order that finalized the settlement agreement between the Department and Ramon F. Solis, Sr. d/b/a Plaza Barber Shop.
  - ◆ As part of this negotiated settlement, Respondent accepted liability for the following violation:
    - Allowing an unlicensed individual to perform barbering on the premises of Plaza Barber Shop.
  - ◆ The violation alleged in this case is Respondent's second violation of the Department's law and rules.
    - Specifically, as part of an agreed order signed on December 2, 2015, Respondent admitted to allowing an unlicensed individual perform barbering on the premises of Plaza Barber Shop.
    - The agreed order assessed a \$1,125 penalty against Respondent, which he paid in full.
  - ◆ Since prior violations increase the penalties sought in subsequent actions, to resolve this most recent violation Respondent agreed to pay an administrative penalty of \$1,875.

**BAR20170023160**

- ❖ Respondent's First Barber's License:
  - ◆ On June 13, 2003, Respondent was issued a Class A Barber License, license no. 238889.
  - ◆ On June 17, 2009, Respondent was arrested on the charge of Possession with intent to deliver a controlled substance of more than 4 grams but less than 200 grams, a first-degree felony.
    - Respondent pleaded guilty to the charge and was imprisoned on August 17, 2009.
    - And in accordance with TEX. OCC. CODE §53.021(b), also on August 17, 2009 Respondent's barber's license was revoked by operation of law.
- ❖ Respondent's Second Barber's License:
  - ◆ Sometime prior to November 22, 2011 (exact date unknown), Respondent was released from state prison, and subsequently applied for a new Class A Barber License.



- On November 22, 2011, Respondent was issued a new Class A Barber License, license no. 238889.
- ◆ Then, on September 24, 2015, Respondent was arrested on the charge of aggravated promotion of prostitution, a felony.<sup>1</sup>
  - Respondent plead guilty to the charge, and was imprisoned on October 27, 2015.
- ◆ Sometime prior to February 15, 2017 (exact date unknown), Respondent was released from state prison, and then attempted to renew his (second) Class A Barber License.
  - Respondent's renewal application failed to disclose his 2015 conviction and imprisonment.<sup>2</sup>
- ◆ On February 15, 2017, the Department denied Respondent's renewal attempt because of a license suspension imposed by the Attorney General for unpaid child support.
- ◆ On May 22, 2017, Respondent paid off his child support obligation, thereby lifting the suspension.
  - After confirming the suspension was lifted, on July 18, 2017, the Department renewed Respondent's Class A Barber License, license no. 238889.
- Then, in August 2017, the Department discovered Respondent's 2015 conviction and imprisonment.
  - The Attorney General has held that the Texas Legislature intended TEX. OCC. CODE §53.021(b) to ensure no person could be imprisoned and hold an occupational license at the same time.
- Thus, on September 22, 2017, the Department notified Respondent that on October 27, 2015, license no. 238889 had been revoked by operation of law.
  - Due to this revocation, the Department's attempt to 'renew' a non-existent license was invalid, and thus Respondent continued in an unlicensed state.

### **Key Statistics for Fiscal Year 2017**

Shown below are key statistics for the Barbering program and for all TDLR programs combined for Fiscal Year 2017.

<b><u>Statistic</u></b>	<b><u>BAR</u></b>	<b><u>TDLR</u></b>
• Number of cases opened:	911	12,054
• Number of cases resolved:	798	12,405
• Number of Agreed Orders:	131	2,309
• Total amount of penalties assessed:	\$252,200	\$5,250,179
• Total amount of penalties collected:	\$123,645	\$2,581,951

# Barber Advisory Board Meeting

## Field Operations Division Report



The Face of TDLR

November 13, 2017

### Barber Most Common Violations Found During Inspections

4<sup>th</sup> Quarter, Fiscal Year 2017

- 1. Establishments not clean and not in good repair.** - 16 Tex. Admin Code Ch. 82.114(a). Establishments shall keep the floors, walls, ceilings, shelves, furniture, furnishings, and fixtures clean and in good repair. Any cracks, holes, or other similar disrepair not readily accessible for cleaning shall be repaired or filled in to create a smooth, washable surface.
- 2. Failure to maintain and make available a list of current employees and independent contractors.** - 16 Admin. Code Ch. 82.52(b) and 82.71(c). The shop owner and/or shop manager shall maintain a current list of all individuals who work in a shop at the time of inspection including employees and independent contractors who engage in barbering. The list is to be made available to department inspectors upon demand.
- 3. Failure to display and attach a photograph license.** - Tex. Occupations Code Sections 1601.451. Each licensee shall display the original certificate or license and an attached photograph of the certificate or license holder in a conspicuous place adjacent to or near the certificate or license holder's work chair in the shop in which the certificate or license holder is working.
- 4. Failure to have rest room on or near premises without stored chemicals.** - 16 Tex. Admin. Code Ch. 82.114(e). Every establishment shall provide at least one restroom located on or near the premises of the establishment. For public safety, chemical supplies shall not be stored in the restroom.
- 5. Failure to prepare fresh disinfectant daily or more often if solution becomes diluted or soiled.** – 16 Tex. Admin. Code Ch. 82.101(a)(3). Disinfectants in which implements are to be immersed shall be prepared fresh daily or more often if solution becomes diluted or soiled.
- 6. Failure to display Notification of Public Interest Information and Participation.** Tex. Occupations Code Section 1603.151(2). The commission by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the department for the purpose of directing complaints to the department regarding barbering on a sign prominently displayed in the place of business of each person regulated under this chapter, Chapter 1601, or Chapter 1602.
- 7. Failure to store clean and disinfected implements and materials in a clean, dry, debris-free environment.** - 16 Tex. Admin. Code Ch. 82.102(f). All clean and disinfected implements and materials when not in use shall be stored in a clean, dry, debris-free environment including but not limited to drawers, cases, tool belts, rolling trays, or hung from hooks. They must be stored separate from soiled implements and materials. Ultraviolet electrical sanitizers are permissible for use as a dry storage container. Non-barber related supplies must be stored in separate drawers or locations.
- 8. Failure to display most recent Proof of Inspection.** – 16 Tex. Admin. Code Ch. 82.71(m). A barber establishment shall display in the establishment, in a conspicuous place clearly visible to the public, a copy of the establishment's most recent inspection report issued by the department.

**9. Failure to display sanitation rules.** - Tex. Occupations Code Sections. 1601.452. Each barbershop, Specialty shop, Dual Shop, Mini-Barbershop, and Mini-Dual Shop shall post in the shop a copy of the commission's sanitation rules.

**10. Failure to ensure that all persons are properly licensed.** 16 Tex. Admin. Code Ch. 82.71(a). The owner of a barbershop, dual shop, specialty shop, mini-barbershop, or mini-dual shop and the shop manager in whose name the shop permit is jointly issued, if different from the owner, shall both be responsible individually and jointly for ensuring that all persons who work in a shop are properly licensed at all times. Individuals who do not hold a current license and /or permit required by the department shall not be allowed to engage in barbering.

**11. Failure to have a Certificate, License or Permit** - Tex. Occupations Code. Section 1601.251(a) and Section 1601.301(a). A person may not own, operate, or manage a barbershop, dual shop, or specialty shop unless the person holds the appropriate permit. A person may not perform or offer or attempt to perform any act of barbering unless the person holds an appropriate certificate, license, or permit.

## **Division Projects**

### Outreach

On September 14, CamTu Tran, East Region Manager presented TDLR's response to Hurricane Harvey on Viet TV Houston/Dallas Radio Vietnam 98.7 FMHD2.

On September 15, Ulises Ossio, TDLR Field Inspector, presented TDLR's response to Hurricane Harvey on Univision and Telemundo.

### Helping Licensees Comply

The Cosmetology and the Barber Establishment Inspection Guides are now posted on the TDLR website. These reference guides will help licensees understand what Field Operations inspectors look for when performing an inspection.

## **Personnel Update**

At the beginning of September, the Field Operations division hired four new field inspectors: Suzanne Creed, Quang Hoang, Lindsey Ren, and Angela Sanders. Quang and Lindsey are in the Houston area, Suzanne is in the DFW area, and Angela is in Corpus Christi.

The division is preparing to interview candidates for three more inspector positions which closed on November 8<sup>th</sup>. These inspectors will be located in Tarrant, Dallas, and Collin counties.

## Inspection Statistics Barber

	Barber Establishments		Dual Establishments		Barber Mini-Shops		Dual Mini-Shops		Barber Program Totals	
	FY 2018	FY 2017	FY 2018	FY 2017	FY 2018	FY 2017	FY 2018	FY 2017	FY 2018	FY 2017
SEPT	123	131	149	158	23	5	12	2	307	296
OCT		124		134		1		1		260
NOV		110		115		0		0		225
QTR 1	123	365	149	407	23	6	12	3	307	781
DEC		105		120		6		10		241
JAN		144		168		10		5		327
FEB		118		135		17		8		278
QTR 2		367		423		33		23		846
MAR		152		195		7		13		367
APR		130		142		7		16		295
MAY		121		159		7		6		293
QTR 3		403		496		21		35		955
JUNE		155		174		10		8		347
JUL		146		189		15		6		358
AUG		126		164		46		75		411
QTR 4		429		527		71		89		1116
Year to Date/ Year End	123	1564	149	1853	23	131	12	150	307	3698



FY 2015 TOTAL POPULATION	FY 2014 TOTAL POPULATION
15,435	14,823
324	319
16	15
0	0
4	3
323	272
0	0
0	0
0	0
8	6
2,300	2,196
3,656	3,748
60	64
3,417	2,988
7	6
17	13
65	57
0	0
0	0
<b>18,410</b>	<b>19,407</b>
<b>7,421</b>	<b>3,908</b>
<b>25,831</b>	<b>23,315</b>

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