

# **COMPLIANCE DIVISION REPORT**

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

September 18, 2017

- Elizabeth Perez, Marinela La Fleur and David Gonzales participated in the PSI Cosmetology and Barber examination reviews on June 13-17, 2017 and on July 11-14, 2017. All reviews have been held in Austin.
- Compliance attended the TIVA Summer Conference – July 17-20, at the Omni Las Colinas in Irving. Elizabeth Perez, Marinela La Fleur, David Gonzales, Enforcement, Education and Examination, Field Operations and Customer Service all 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.
- Elizabeth Perez and Marinela La Fleur are leading the Bar/Cos Implementation Team which worked on implementing the law changes after the 85<sup>th</sup> Legislative Session.

### **Upcoming Trade Shows**

- Elizabeth Perez, Marinela La Fleur and will be attending the Armstrong McCall World's Fair – October 1-2, at the San Antonio Convention Center.
- Elizabeth Perez and Marinela La Fleur will be attending the 73<sup>rd</sup> NBCL- Texas State Association & Beauty Culturist's League, October 8-9, at the Holiday Inn Plaza in Beaumont.

### **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 and emails.

## ADVISORY BOARD ON BARBERING

September 18, 2017

### RECENT ACCOMPLISHMENTS AND CURRENT PROJECTS

#### Legislative Updates

SB 2065 - Deregulates statewide regulation of hair shampooing and conditioning and clarifies that the practice of threading does not require a barber, cosmetologist, or specialty license.

HB 2738 – Allows barber and cosmetology schools to count instruction hours based on clock hours or credit hours.

HB 2739 – Provides greater flexibility and lower operational costs for barber and cosmetology schools and related facilities by revising, among other requirements, applicable facility square footage, equipment, and inspection requirements.

### EDUCATION, EXAMINATION, & SCHOOL SERVICES

#### Barber Curriculum Improvement Process

Processing improvements were needed to increase the efficiency of the division. We have streamlined the curriculum review process which has decreased the amount of time for schools to receive curriculum approval. This new process has also enabled the division to collect the necessary data to be able to provide school curriculum information for performance measures and we are working towards having this information available for the public in the near future.

#### Total E-Mail Answered by Staff

(as of July 31, 2017)

MONTH	FY2017	FY 2016	FY 2015
September	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
<b>TOTAL</b>	<b>11,882</b>	<b>11,011</b>	<b>835</b>

## BARBER STATISTICS AND TRENDS

### BARBER EXAMINATION STATISTICS

(As of JULY 31, 2017)

2017	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
Pass	168	216	204	588	190	193	196	579	237	222	211	670	208	210	0	418	2,255
Fail	135	147	150	432	113	111	129	353	144	159	148	451	137	138	0	275	1,511
Total	303	363	354	1020	303	304	325	932	381	381	359	1,121	345	348	0	693	3,766
Rate	55.4%	59.5%	57.6%	57.6%	62.7%	63.5%	60.3%	62.1%	62.2%	58.3%	58.8%	59.8%	60.3%	60.3%	0.0%	60.3%	59.9%

2016	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
Pass	137	195	165	497	177	143	193	513	201	200	211	612	194	199	193	586	2,208
Fail	101	97	95	293	80	87	103	270	112	117	89	318	154	124	128	406	1,287
Total	238	292	260	790	257	230	296	783	313	317	300	930	348	323	321	992	3,495
Rate	57.6%	66.8%	63.5%	62.9%	68.9%	62.2%	65.5%	65.5%	64.2%	63.1%	70.3%	65.8%	55.7%	61.6%	60.1%	59.1%	63.2%

2015	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
Pass	208	160	148	516	134	160	151	445	171	166	127	464	190	197	194	581	2,006
Fail	106	92	82	280	66	68	63	197	99	118	89	306	99	104	85	288	1,071
Total	314	252	230	796	200	228	214	642	270	284	216	770	289	301	279	869	3,077
Rate	66.2%	63.5%	64.3%	64.8%	67.0%	70.2%	70.6%	69.3%	63.3%	58.5%	58.8%	60.3%	65.7%	65.4%	69.5%	66.9%	65.2%

**BARBER INSPECTION STATISTICS**  
(As of JULY 31, 2017)

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	0	7	31
East	10	0	3	13	0	2	6	8	10	1	6	17	2	2	0	4	42
West	2	2	4	8	0	3	5	8	2	2	3	7	3	1	0	4	27
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	0	28	155

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

LICENSE TYPE	PASS	FAIL	TOTAL	RATE
SEPTEMBER -- OCTOBER – NOVEMBER 1 <sup>ST</sup> QUARTER				
CLASS A WRITTEN	315	338	654	48.32%
CLASS A PRACTICAL	242	62	304	79.61%
MANICURIST WRITTEN	1	1	2	50.00%
MANICURIST PRACTICAL	0	0	0	0%
TECHNICIAN WRITTEN	0	0	0	0%
TECHNICIAN PRACTICAL	0	0	0	0%
HAIRWEAVING WRITTEN	2	1	3	66.67%
HAIRWEAVING PRACTICAL	1	0	1	100.00%
TECHNICIAN/MANICURIST WRITTEN	0	0	0	0%
TECHNICIAN/MANICURST PRACTICAL	0	0	0	0%
TECHNICIAN/HAIRWEAVING WRITTEN	0	0	0	0%
TECHNICIAN/HAIRWEAVING PRACTICAL	0	0	0	0%
INSTRUCTOR WRITTEN	17	26	43	39.53%
INSTRUCTOR PRACTICAL	9	4	13	69.23%
<b>TOTAL</b>	<b>588</b>	<b>432</b>	<b>1,020</b>	<b>57.65%</b>

LICENSE TYPE	PASS	FAIL	TOTAL	RATE
DECEMBER – JANUARY – FEBRUARY 2 <sup>ND</sup> QUARTER				
CLASS A WRITTEN	287	313	600	47.83%
CLASS A PRACTICAL	266	22	288	92.36%
MANICURIST WRITTEN	0	1	1	0%
MANICURIST PRACTICAL	1	0	1	100.00%
TECHNICIAN WRITTEN	0	0	0	0%
TECHNICIAN PRACTICAL	0	0	0	0%
HAIRWEAVING WRITTEN	0	0	0	0%
HAIRWEAVING PRACTICAL	2	0	2	100.00%
TECHNICIAN/MANICURIST WRITTEN	0	0	0	0%
TECHNICIAN/MANICURST PRACTICAL	0	0	0	0%
TECHNICIAN/HAIRWEAVING WRITTEN	1	0	1	100.00%
TECHNICIAN/HAIRWEAVING PRACTICAL	0	0	0	0%
INSTRUCTOR WRITTEN	11	14	25	44.00%
INSTRUCTOR PRACTICAL	11	3	14	78.57%
<b>TOTAL</b>	<b>579</b>	<b>353</b>	<b>932</b>	<b>62.12%</b>

LICENSE TYPE	PASS	FAIL	TOTAL	RATE
<b>MARCH – APRIL – MAY 3<sup>RD</sup> QUARTER</b>				
CLASS A WRITTEN	345	383	728	47.39%
CLASS A PRACTICAL	305	38	343	88.92%
MANICURIST WRITTEN	1	0	1	100.00%
MANICURIST PRACTICAL	0	0	0	0%
TECHNICIAN WRITTEN	0	0	0	0%
TECHNICIAN PRACTICAL	0	0	0	0%
HAIRWEAVING WRITTEN	1	0	1	100.00%
HAIRWEAVING PRACTICAL	0	0	0	0%
TECHNICIAN/MANICURIST WRITTEN	0	0	0	0%
TECHNICIAN/MANICURST PRACTICAL	0	0	0	0%
TECHNICIAN/HAIRWEAVING WRITTEN	1	0	1	100.00%
TECHNICIAN/HAIRWEAVING PRACTICAL	2	0	2	100.00%
INSTRUCTOR WRITTEN	1	29	39	25.64%
INSTRUCTOR PRACTICAL	5	1	6	83.33%
<b>TOTAL</b>	<b>670</b>	<b>451</b>	<b>1,121</b>	<b>59.77%</b>

LICENSE TYPE	PASS	FAIL	TOTAL	RATE
<b>JUNE – JULY – AUGUST (As of July 31<sup>st</sup>) 4<sup>TH</sup> QUARTER</b>				
CLASS A WRITTEN	207	245	452	45.80%
CLASS A PRACTICAL	193	13	206	93.69%
MANICURIST WRITTEN	2	1	3	66.67%
MANICURIST PRACTICAL	1	0	1	100.00%
TECHNICIAN WRITTEN	0	0	0	0.00%
TECHNICIAN PRACTICAL	0	0	0	0.00%
HAIRWEAVING WRITTEN	0	0	0	0.00%
HAIRWEAVING PRACTICAL	1	0	1	100.00%
TECHNICIAN/MANICURIST WRITTEN	0	0	0	0.00%
TECHNICIAN/MANICURST PRACTICAL	0	0	0	0.00%
TECHNICIAN/HAIRWEAVING WRITTEN	0	0	0	0.00%
TECHNICIAN/HAIRWEAVING PRACTICAL	0	0	0	0.00%
INSTRUCTOR WRITTEN	4	15	19	21.05%
INSTRUCTOR PRACTICAL	10	1	11	90.91%
<b>TOTAL</b>	<b>418</b>	<b>275</b>	<b>693</b>	<b>60.32%</b>

# **ADVISORY BOARD ON BARBERING**

## **Enforcement Division Staff Report**

**September 18, 2017**

### **Case Highlights**

#### **Case Numbers BAR20170006922 and BAR20170009127**

- ❖ On July 25, 2017, the Executive Director signed an agreed order that finalized the settlement agreement between the Department and TBES, Inc. d/b/a Texas Barber College (Respondent).
  - ◆ Both cases alleged the same violation – that Respondent miscalculated the value of a former student’s total outstanding tuition.
  - ◆ As part of this negotiated settlement:
    - Respondent admitted its calculation was in error; and
    - After correcting this error, Respondent agreed with the Department’s own findings, specifically:
      - All of the tuition earned by the school had been paid, and
      - Each student was owed a refund of some of the unearned tuition.
  - ◆ To resolve these two violations, Respondent agreed to pay an administrative penalty of \$3,000 and to refund each student the unearned tuition due to her.

#### **Case No. BAR20170014814**

- ❖ On April 28, 2017, the Executive Director signed an agreed order that finalized the settlement agreement between the Department and Moises A. Rodriguez (Respondent) d/b/a LMV Cutz.
  - ◆ As part of this negotiated settlement, Respondent:
    - admitted liability for two (2) unlicensed individuals who were observed engaged in barbering at LMV Cutz; and
    - admitted liability for the failure of a representative of LMV Cutz’s to cooperate with the Department Inspector during the inspection.
  - ◆ To resolve these violations, Respondent agreed to pay an administrative penalty of \$3,150.

### **Case No. BAR20170010827**

- ❖ On July 11, 2017 the Executive Director signed an agreed order that finalized the settlement agreement between the Department and Julio Valentino Villarreal (Respondent) d/b/a Tino's Cuts.
  - ◆ As part of this negotiated settlement, Respondent admitted liability for two (2) unlicensed individuals observed engaging in barbering at Tino's Cuts.
  - ◆ The violations alleged in this case are Respondent's second violations of the Department's law and rules.
    - Specifically, in an agreed order signed on March 1, 2015, Respondent admitted he operating a barbershop with an expired license and also he allowed three (3) unlicensed individuals to engage in barbering at Tino's Cuts.
    - Respondent was assessed a \$1,800 penalty, which he paid in full.
  - ◆ And as prior violations increase the penalties sought in subsequent actions, to resolve these most recent violations, Respondent agreed to pay an administrative penalty of \$3,750.

### **Case No. BAR20170019398**

- ❖ On December 16, 2016, the Executive Director granted a default order against Donnell Bickham (Respondent).
  - ◆ This default order found Respondent liable for failing to comply with an order of the Executive Director.
  - ◆ Specifically, on August 15, 2016, the Executive Director signed a default order in case No. BAR20160013209.
    - This default order found Respondent liable for barbering with an expired license, and assessed him \$1,500 penalty.
    - Respondent paid none of it.
- ❖ Perhaps unsurprisingly, Respondent didn't respond to the Department's most recent request that he come into compliance and pay the penalty assessed in the old case.
  - ◆ But when the Executive Director signed the default order in this new case, there was no penalty assessed – instead, Respondent barber's license was revoked.
  - ◆ And until Respondent satisfies his obligations to the Department, he'll remain unlicensed – not just barbering, but all of the professions regulated by the Department.



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

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

<b><u>Statistic</u></b>	<b><u>BAR</u></b>	<b><u>TDLR</u></b>
• Number of cases opened:	842	11,235
• Number of cases resolved:	725	11,351
• Number of Agreed Orders:	125	2,197
• Total amount of penalties assessed:	\$238,700	\$4,880,479
• Total amount of penalties collected:	\$116,111	\$2,470,808

# Barber Advisory Board Licensing Statistics Fiscal Years 2014 to 2017

	New Licenses Issued	Percent New Licenses Issued Online	Renewal Licenses Issued	Percent Renewals Issued Online	FY 2017 TOTAL POPULATION	FY 2016 TOTAL POPULATION
Class A Barber	704	N/A	4634	85.6%	16,383	15,941
Manicurist	1	N/A	94	66.0%	292	299
Technician	2	N/A	2	150.0%	15	16
Technician/Manicurist	0	N/A	N/A	N/A	0	0
Technician/Hair Weaving	0	N/A	N/A	N/A	5	5
Class A Barber Instructor	41	N/A	101	97.0%	419	367
Manicure Instructor	0	N/A	N/A	N/A	0	0
Technician Instructor	0	N/A	N/A	N/A	0	0
Hair Weaving Instructor	0	N/A	N/A	N/A	0	0
Hair Weaving Specialist	3	N/A	2	100.0%	12	9
Barber Student	2603	95.0%	N/A	N/A	2,813	2,708
Barber Shops	332	77.7%	894	67.6%	3,607	3,621
Manicurist Shops	8	87.5%	13	84.6%	60	56
Dual Shop	695	82.9%	888	97.7%	4,164	3,835
Weaving Shop	1	100.0%	0	0.0%	5	7
Mobile Salon	4	N/A	2	0.0%	17	14
Private Barber School	6	N/A	43	N/A	78	75
Vocational Barber School	1	N/A	N/A	N/A	1	0
Community College Barber Schd	0	N/A	N/A	N/A	0	0
<b>TOTAL INDIVIDUALS</b>	<b>3354</b>	<b>95.0%</b>	<b>4834</b>	<b>85.5%</b>	<b>19,939</b>	<b>19,345</b>
<b>TOTAL FACILITIES</b>	<b>470</b>	<b>79.8%</b>	<b>1040</b>	<b>67.5%</b>	<b>4,166</b>	<b>4,114</b>
<b>TOTAL BARBER LICENSEE POPULATION</b>					<b>24,105</b>	<b>23,459</b>

\*The population number is a snapshot of the number of active licenses on the first day of the fiscal year. The number of licenses issued and renewed is the total activity performed during the fiscal year.

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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# **Barber Advisory Board Meeting**

## **Field Operations Division Report**



**The Face of TDLR**

**September 18, 2017**

### **Barber Most Common Violations Found During Inspections**

3<sup>rd</sup> Quarter, Fiscal Year 2017

**1. 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.

**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. 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.

**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 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.

**6. 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.

**7. 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.

**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 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**

### Prevention of Human Trafficking

Jennifer Harless continued working on prevention of human trafficking projects. On July 24, she met with the Department of Labor and Refugee Services of Texas. And, she met with the Department of Labor on July 26, 2017.

### Mini Salon Round Ups

Field staff in the East, North and South Regions have completed 58 mini-salon round-ups throughout Texas, completing approximately 2384 inspections this fiscal year so far.

### Outreach

CamTu Tran, East Region Manager continues working with Vietnamese TV in Houston and Dallas and Radio Vietnam 98.7 FMHD2.

## **Personnel Update**

The week of August 7 through August 11 Field Ops performed 26 interviews in three cities. Four field inspectors will start on 9/1/17. Two are in the Houston area, one is in Corpus, and one is in the DFW area. We will post for one additional inspector in the San Angelo area soon.

## Inspection Statistics Barber

	Barber Establishments		Dual Establishments		Barber Mini-Shops		Dual Mini-Shops		Barber Program Totals	
	FY 2017	FY 2016	FY 2017	FY 2016	FY 2017	FY 2016	FY 2017	FY 2016	FY 2017	FY 2016
SEPT	131	282	158	120	5	2	2	5	296	409
OCT	123	97	132	69	1	1	1	8	257	175
NOV	110	54	116	35	0	2	0	1	226	92
QTR 1	364	433	406	224	6	5	3	14	779	676
DEC	104	116	119	90	6	1	10	0	239	207
JAN	144	129	168	91	10	1	5	0	327	221
FEB	116	117	134	103	17	2	8	9	275	231
QTR 2	364	362	421	284	33	4	23	9	841	659
MAR	152	111	194	114	7	3	13	3	366	231
APR	130	151	142	130	7	5	16	0	295	286
MAY	121	209	159	163	7	1	6	7	293	380
QTR 3	403	471	495	407	21	9	35	10	954	897
JUNE	154	194	173	176	10	2	8	9	345	381
JUL	146	168	185	143	15	1	6	1	352	313
AUG	122	125	160	101	46	2	75	1	403	229
QTR 4	422	487	518	420	71	5	89	11	1,100	923
Year to Date/ Year End	1553	1753	1840	1335	131	23	150	44	3674	3155
†Barber Schools Inspections were transferred to the Education and Examination Division as of September 1, 2015										