

## **TIMELINE OF MAJOR EVENTS ENTAILING COSMETOLOGY BOARD'S 2-INSTRUCTOR RULE/STATUTE**

**Effective 8/15/10:** “Each school shall employ as at least two instructors, persons who are teachers registered by the board, at least one of whom shall have been a registered teacher and in active practice for at least eighteen months.” HB 1028, Wayne Waddell. Became Act 728 of the 2010 Legislature. R. S. 37:595A(4).

Above Statute **never** (even to this day) **PUBLISHED in the LOUISIANA REGISTRY NOR promulgated into Title 46 (a/k/a “The Gold Book”)** for dissemination out to licensed school instructors. See applicable page provided with relevant section highlighted. **[Promulgate: make well-known, broadcast, spread, disseminate]**.

Nelda Dural's Iberia School of Cosmetology is inspected on numerous occasions and noted to be employing only one instructor (Nelda); however, no infraction whatsoever is ever noted. Basically, for four years, the prior LSBC members and, more particularly their attorneys: 1) failed to perform its obligation to promulgate the 2-instructor statute into Title 46, and 2) essentially chose to let the requirement sleep in a dormant manner until it suddenly became convenient to exploit it in the case of Dural.

**April 13, 2015:** LSBC, notwithstanding above statute, arbitrarily grants an “exception” to the **statute** requiring two instructors. See page from 4/13/15 minutes provided. Despite attorneys Morris & Cangelosi being aware that the preceding requirement was a **statute**, they failed to advise the LSBC that it **had no authority to permit exceptions to statutes**, and both attorneys remained silent and permitted the LSBC to implement the “exception.”

**June 1, 2015:** Despite “exception” granted only 49 days previously, LSBC conducts hearing for Nelda Dural in which she is grilled by LSBC prosecuting attorney Morris entailing failing to conform to the two-instructor requirement. Morris goes so far as to ask a leading question: “Isn't it a fact, Ms. Dural, that you've known of the two-instructor requirement, and you've just chosen to ignore that requirement?” Additionally, Dural's former students testify as witnesses that Executive Director Steve Young told them “not to attend Iberia Cosmetology School because it is a ‘threatening environment.’” Morris declines to place Young on the witness stand to refute the testimony of the students. One HAS to infer from Morris' failure to do so that Young DID IN FACT make those statements to prospective and/or previously-enrolled students. Many of the students stated that Dural was an effective instructor (including one gentleman who'd previously been in the oilfield vocation). Nevertheless, they filed complaints because either: 1) they didn't want to honor their contracts (e.g. the former oilfield worker and one student who openly admitted she'd concealed her enrolment in the school from her husband and stated the he “would want to kill me if he finds out I paid the money I did for enrolling at the school” – she also readily admitted she lost interest and just “quit attending the classes with any regularity,” or 2) they didn't want to pay for overages for which their contracts

provided when they failed to attend regularly (e.g. the student who concealed her enrollment from her own husband).

**August 14, 2015:** After 2 ½ days of excruciating deliberations to produce a Findings of Fact, the LSBC mails Dural its Findings of Fact and **conclusions of law** in which it imposes fines approximating \$5,000 and an astounding \$43,000 in costs against Dural (see cost page provided). See entry for 9/8/16 below as to why these “conclusions of law” are in error and need to be corrected internally and SHOULD have been argued by Ms. Dural’s defense attorney, Edward Landry.

**September 9, 2015:** Dural’s attorney, Edward Landry, files Administrative Appeal in 19<sup>th</sup> JDC along with a Motion to Stay any closure of Dural’s school. Although Judge Johnson signs Motion to Stay, Morris files Motion to Vacate (Landry filed ex-parte with no provision for contradictory hearing), and arguments were ultimately heard in Judge Johnson’s courtroom and he granted the lifting of the stay.

**Early April, 2016:** Dural’s school license is revoked and her school is shut down by the LSBC.

**June 13, 2016:** Raynetta Frazier appears before the LSBC fearing that her own Cosmetology classes which she provides to public school students may come to an end as well as a result of her School Board indicating they simply can’t justify paying for a second instructor to fulfill the statutory requirement. Like Dural, Frazier emphasizes she has “never been deemed to be in violation” all the years she has conducted classes utilizing only herself as the instructor.

### **On or Around September 8, 2016:**

Conference called conducted with **Ms. Katherine Brindley** at the Louisiana Registry (**225-342-5016**). She said anyone on that call, myself included, was welcome to use her name and stated, “I am here to serve the public!” She was very, very emphatic that the **LSBC had “dropped the ball” in not promulgating the 2010 statute into Title 46**, and that **both attorneys “should know better.”** She also said that, “larger occupational boards would never engage in something like that because they know they could never get away with it.” She further described what had transpired in **Dural’s case as “a tragedy” that never should have transpired**. She also stated that she believes that, while it is true that a statute does “trump” a rule, the **LSBC’s dismal failure to**

promulgate the statute into Title 46 would make the statute “unenforceable” in a court of law, and she faulted Dural’s attorney for not hammering that point home hard both at the LSBC hearing and in court. She cited a similar case entailing the **Electrolysis Board (Pauline Poole)** in which Ms. Poole was given several options of her OWN choosing in order to remedy the “injustice” bestowed upon her as a result of circumstances very similar to Ms. Dural’s.

Based on guidance provided by Ms. Brindley after she made the statements reflected above which, again, she said were free to have her name associated with them, Nelda Dural filed a formal complaint with the Office of Inspector General entailing the episode which transpired with her only minutes after obtaining that guidance from Ms. Brindley.

#### My Assessment:

The LSBC (and particularly its attorneys Morris and Cangelosi) in failing to publish the 2-instructor requirement in the Louisiana Register and promulgate it into Title 46 (the Gold Book) is analogous to the Legislature approving reducing the speed limit from 65 MPH to 60 MPH on I-10 over the Atchafalaya Basin, and then LSP failing to post speed limit signs warning motorists of the new speed limit. **The effect is that the statute becomes UNENFORCEABLE!!!!!!!**

#### My recommendation:

Revoking Dural’s school license was a reckless and irresponsible action taken by the previous board guided almost exclusively at the behest of former Chairman Frances Hand, Executive Director Steve Young, and the two attorneys, Cangelosi and Morris. I think it would be most prudent to correct the irresponsible actions of the prior board (particularly Hand), Executive Director Young, and the two attorneys by reinstating Dural’s school license and permitting Ms. Frazier to operate with one instructor. By failing to publish the 2-instructor requirement into the Louisiana Registry and by failing to promulgate it into Title 46, the prior Board’s and two attorneys have been derelict in their obligations and have RENDERED THE STATUTE UNENFORCEABLE (just as LSP would do by NOT posting updated speed limit signs on the Atchafalaya Basin after the Legislature approved a statute to reduce the speed to 60 MPH).

Next, in the 2017 Legislative session, the LSBC needs to advance legislation repealing the two-instructor mandate. I think its intended purpose was NEVER to protect the public (or why else would an “exception” be granted???) but instead was intended to

drive smaller, lower-tuition schools (and public, tuition-free schools) representing low-cost competition, right out of business.

As I'm sure everyone is bound to be aware by now, I am making videos of this board available to various entities with the capacity to effectively sue the LSBC, including the Institute for Justice and the Federal Trade Commission. **I even had to go to the trouble of making arrangements for a videographer from court reporters to be here at a meeting recently for which I had a conflict.** These agencies are finding these videos quite intriguing.

When I first attended an LSBC meeting with my camera in tow, Ms. Morris asked me if I planned to be a regular attendee, and I responded, "It depends upon what I uncover." Frankly, I have a ton of other boards I'd rather be focusing on, and I think it would be in everyone's best interest to implement a SIGNIFICANT change in the way this board operates (particularly the manner in which it conducts its Administrative Hearings, and I'll be happy to elaborate if anyone would like) and negate the need for me to even be present for this board's meetings. Nevertheless, if operations continue under the present board as they did under the previous board, I'll be a permanent fixture at these meetings to provide video coverage to those agencies which have expressed interest in watching them.

I appreciate the opportunity to address you today, and I thank you for your time.



**§313. Transfer Students**

A. Out-of-State. The board will accept student hours certified by an out-of-state school provided that the hours are transferred to a Louisiana school. The Louisiana school shall evaluate the student's transcript and determine how many hours of the curriculum have been completed by the student. The school shall submit to the board a verification of the number of transferable hours which shall include supporting data, a certificate from the out-of-state school and a certificate from the state board which supervises the school.

B. In-State. When enrolling a transfer student from another school within Louisiana, the school owner must provide the board with the following:

1. student enrollment application indicating on the application that it is a re-registration;
2. certification of payment of contractual fees owed to the former school, unless the former school is unable to certify payment of contractual fees owed due to temporary or permanent closure or loss of records; however, any student who transfers without certifying payment of contractual fees owed, shall provide certification of payment of contractual fees owed to the former school prior to applying for an examination, certificate of registration, license or renewal of the certificate of registration or license in accordance with §309;
3. if the student has transferred schools more than once, a re-registration fee of \$10 must accompany the application.

C. Notice of Termination. Any students transferring hours from one school to another is required to submit a Notice of Termination Form within 30 days of student's drop-out date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:598(A)(4).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:327 (March 2003), amended LR 32:834 (May 2006).

**§315. Responsibilities of Schools**

A. Enrollment. Upon enrollment of a student, the school must provide the following to the board:

1. student enrollment application;
2. the student's birth certificate, birth card or driver's license;
3. proof of completion of education equal to the tenth grade;
4. a photograph of the student; and
5. the student registration fee.

B. Reports. Schools must maintain hour reports for a minimum of three years.

C. Mannequin. Schools must furnish to each student, at a nominal fee, a mannequin upon which the student may practice and may use for the practical examination.

D. Professional Department. Schools shall not have professional departments within the school, nor shall any school owner own or operate a beauty shop or salon in connection with a school. School staff members shall not practice in an adjoining beauty shop or salon, while school is in session. There shall be no unsealed connecting doors between a beauty shop or salon under the same roof.

E. Faculty. All schools must maintain a faculty of at least one instructor per every 20 students enrolled. Each faculty shall include a senior instructor who shall have at least 18 months teaching experience in an accredited school of cosmetology. The senior instructor shall supervise all other faculty members.

F. Senior Instructor. In the event that the senior instructor resigns or takes a leave of absence, the school shall advise the board monthly of their efforts to employ a new senior instructor.

G. School Closing. Any school owner who intends to close any school shall notify the board in writing as soon as practicable. Copies of documents relative to closure must be provided to the board office, including, but not limited to, teach-out plans and teach-out agreements. The board shall be the custodian of records for any school which closes.

H. Student Work. Schools shall post a legible sign not smaller than 6 inches by 10 inches, at the entrance of each school reading: "Student Work Only."

I. Compensation. Schools shall not pay commissions or any other compensation, discount or fee to a cosmetology, esthetics or manicuring student for work in training done by them.

J. Registrations. All student registrations must be posted in a conspicuous place.

K. Text Books. Schools must provide a textbook to each student upon registration.

L. Library. Schools must maintain a library which shall be available to all students.

M. Hours. Schools must post a monthly summary of hours earned by each student.

N. Cosmetology Services. No employee or owner of a school shall knowingly permit students to perform any professional cosmetology work for which they do not possess a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:595.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:327 (March 2003).

**§317. Equipment Required in Cosmetology Schools**

A. Equipment. Every cosmetology school must have a practical work room and working equipment including:

1. six shampoo bowls;
2. six hair dryers;

**6. L.B. Landry/Walker High School**  
**Addition of an Instructor**

**Lora Moreau made the motion to accept LB Landry to use only one instructor as long as a substitute is available on stand-by provided that there are no more than 20 students in one class and they must send a letter from the substitute teacher to the Board. Michelle Hays seconded, motion carried by unanimous voice vote.**

**7. Opulent Beauty Institute**  
**Fire Marshal Report & Blueprints**

**This matter was denied because it did not meet the requirements of R.S. 37:594 B: 5.**

**IX. CONSENT AGREEMENTS**

- A. Shiny Nails**
- B. Thanh T. Nhan**
- C. Louisiana Academy of Beauty**
- D. Tony Nguyen DBA A & T Salon & Spa**
- E. Vinh Tran DBA Charming Nails**
- F. Tran Thi Huyen Nguyen**
- G. Creative Nails**
- H. Anh T. Tran**
- I. H & D Nail Salon LLC**
- J. Thu Ha Thi Huynh**
- K. Rocking Nails**
- L. Hien My Ly**
- M. Van Ho**
- N. Yen H. Nguyen DBA Regal Nails**
- O. Regal Nails**
- P. Dep T. Lam**

**Ira Weber made the motion to approve consent agreement C. Michelle Hays seconded, motion carried by unanimous voice vote. (Attachment A)**

LOUISIANA STATE BOARD OF COSMETOLOGY

IN THE MATTER OF NELDA DURAL

(Cosmetology License No. XXXXX0226 and  
Instructor License No. XXXXX0226)

DOCKET NO. 15-018

consolidated with

IN THE MATTER OF NELDA DURAL  
doing business as IBERIA COSMETOLOGY INSTITUTE

(Cosmetology School License No. XXXXX4228-0)

DOCKET NO. 15-019

COSTS OF PROCEEDING

STENOGRAPHER FEES (Exhibit A)		\$ 4,012.75
ATTORNEY FEES		\$38,973.18
•BOARD ADVISOR (Exhibit B)	\$ 8,400.00	
•COMPLAINT COUNSEL (Exhibit C)	\$30,573.18	
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TOTAL COST OF PROCEEDING		\$42,985.93