

BOARD OF BARBERING AND COSMETOLOGY

Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

MINUTES OF MEETING

Date: Wednesday, October 12, 2011

Time: 9:00 a.m.

Place: PVL Examination Room
King Kalakaua Building, 3rd Floor
335 Merchant Street, Room 330
Honolulu, Hawaii 96813

Present: Lance M. Marugame, Barber Member, Chairperson
Lee Ann Apao, Cosmetology Member, Vice-Chairperson
Alexander Choi, Public Member
Angela Howard, Public Member
Carla M. Morioka, Cosmetology Member
June J. Takano, Public Member
Rodney J. Tam, Deputy Attorney General
Laureen M. Kai, Executive Officer
Lori Nishimura, Secretary

Guests: Cheryl Lorch, applicant
Lynnette F. McKay, Honolulu Community College
Chad Nelson, Fantastic Sams Hawaii Regional Director
Maria Nelson, Remington College PBI
Margaret Williams, Hawaii Institute of Hair Design

Agenda: The agenda for this meeting was filed with the Office of the Lieutenant Governor, as required by Hawaii Revised Statutes ("HRS") section 92-7(b).

Call to Order: There being a quorum present, the meeting was called to order at 9:00 a.m. by Chairperson Marugame.

Additions/
Revisions to
Agenda: None.

Ms. Howard arrived at 9:02 a.m. to the meeting.

Chairperson Marugame recessed the meeting at 9:02 a.m. to discuss and deliberate on the following adjudicatory matter pursuant to HRS chapter 91:

Chapter 91, HRS, A. In the Matter of the Beauty Shop License of CMC MEDI-SPA, LLC, Adjudicatory Matters: and the Beauty Operator's License of CINDY M. CHANG (COS 2009-23-L)

Executive Officer Kai gave a brief summary of what a settlement agreement entered into prior to the filing of a petition for disciplinary action and Board's Final Order entails: usually, there is no admission of guilt by the Respondent and the Board is only given minimal details of the case.

Ms. Morioka arrived at 9:06 a.m. to the meeting.

Ms. Kai provided a brief summary of the case:

- The Respondents are CMC Medi-Spa, LLC (licensed beauty shop) and Cindy M. Chang (licensed Beauty Operator and Instructor);
- Between approximately August and September 2009, Respondents advertised and operated as a beauty school when they did not have any licenses, which constitutes unlicensed activity;
- One student paid money to attend the Respondents' program and that person's money has been refunded.

The terms of the Settlement Agreement ("SA"):

- Respondents agree to pay \$1000 administrative fine (\$500 suspended if paid in a "timely manner");
- Should Respondents fail to make monthly payment of fine and to timely comply with the terms of the SA, Respondents' licenses shall be automatically revoked without a hearing upon RICO's filing of an affidavit with the Board attesting to such failure.

Deputy Attorney General ("DAG") Tam arrived at 9:13 a.m.

After discussion, it was moved by Vice-Chairperson Apao, seconded by Ms. Howard, and unanimously carried to approve the Settlement Agreement as the Board's Final Order.

B. In the Matter of the Beauty School License of INTERNATIONAL SCHOOL OF BEAUTY & ESTHETIQUE LLC (COS 2009-33-L; COS 2009-40-L; COS 2009-42-L; COS 2009-44-L; BAR 2010-5-L; BAR 2010-13-L; BAR 2010-14-L; BAR 2010-16-L; and BAR 2010-21-L [Consolidated])

DAG Tam provided a brief summary of the case:

- The Respondent is charged with violating HRS sections 436B-19(8) and 436B-19(11).

Hearing Officer's Recommended Order:

- Respondent's license be revoked;
- Respondent be ordered to pay within 60 days of the Board's Final Order, restitution to nine (9) individuals of varying amounts and a fine of \$25,000.;
- Full payment of restitution and fine are conditions for relicensure.

After discussion, it was moved by Ms. Morioka, seconded by Mr. Choi, and unanimously carried to approve the Hearings Officer's Recommended Order as the Board's Final Order.

At 9:24 a.m., the Board reconvened its scheduled meeting and immediately followed with the Executive Session.

Executive Session:

At 9:24 a.m., it was moved by Ms. Morioka, seconded by Ms. Howard, and unanimously carried for the Board to enter into Executive Session to consider and evaluate personal information relating to individuals applying for licensure in accordance with HRS section 92-5(a)(1), and to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities in accordance with HRS section 92-5(a)(4).

EXECUTIVE SESSION

At 9:59 a.m., it was moved by Ms. Morioka, seconded by Mr. Choi, and unanimously carried for the Board to move out of Executive Session. The Board immediately recessed the meeting.

At 10:05 a.m., the Board reconvened the meeting.

Minutes of the
August 24, 2011
Board Meeting:

It was moved by Ms. Morioka, seconded by Vice-Chairperson Apao, and unanimously carried to approve the minutes of the August 24, 2011 Board meeting, as circulated.

Applications:

A. Ratification of Issued Licenses

After discussion, it was moved by Ms. Morioka, seconded by Mr. Choi, and unanimously carried to ratify the list of issued licenses attached (see, attached list).

B. Examination and License

(1) SAKAMOTO, Leah K.

After discussion, it was moved by Vice-Chairperson Apao, seconded by Ms. Morioka, and unanimously carried to approve the application for examination and license, in the cosmetology category, for Leah K. Sakamoto.

(2) WAERY, Mary Jill

After discussion, it was moved by Ms. Morioka, seconded by Vice-Chairperson Apao, and unanimously carried to approve the application for examination and license, in the esthetician category, for Mary Jill Waery.

(3) WAERY, Mary Jill

After discussion, it was moved by Ms. Morioka, seconded by Vice-Chairperson Apao, and unanimously carried to approve the application for examination and license, in the nail technician category, for Mary Jill Waery.

C. Beauty School License

(1) Paul Mitchell the School Honolulu LLC

Discussion ensued on the application for a beauty school license for Paul Mitchell the School Honolulu LLC who submitted an application due to a change in ownership. A sanitation clearance, issued (within one year of the date of application) by the Department of Health ("DOH") is required with the application; but, DOH submitted a letter stating that its inspectors would not issue sanitation clearances for beauty schools because that service is not authorized in its laws and rules. The

Executive Officer noted that a copy of this letter is included in this application since they would not be able to get a sanitation clearance issued under the beauty school name, as required.

After discussion, it was moved by Ms. Morioka, seconded by Vice-Chairperson Apao, and unanimously carried to approve the application for a beauty school license for Paul Mitchell the School Honolulu LLC.

D. Ratification of Issued Beauty School License

- (1) Remington Colleges, Inc. d/b/a/ Paul Brown Institute at Remington College

Discussion ensued on the application for a beauty school license for Remington Colleges, Inc. dba Paul Brown. At the Board's previous meeting, the Board had delegated to the Executive Officer, authority to approve this license contingent upon satisfactory compliance with all requirements. Executive Officer Kai stated that this approval was given on October 3, 2011. It was moved by Ms. Morioka, seconded by Vice-Chairperson Apao, and unanimously carried to ratify the approval of the beauty school license of Remington Colleges, Inc. d/b/a/ Paul Brown Institute at Remington College.

D. Restoration of Licenses

- (1) MENDOZA, Victoria (BEO 4859)

After discussion, it was moved to approve the restoration of the beauty operator license of Victoria Mendoza by Ms. Morioka, seconded by Vice-Chairperson Apao, with a vote of five ayes (Chairperson Marugame, Vice-Chairperson Apao, Mr. Choi, Ms. Morioka, and Ms. Takano), and a vote of one nay (Ms. Howard). The motion carried to approve the restoration of the beauty operator license of Victoria Mendoza.

- (2) VILLALBA, Garret S. (BEO 11995)

Discussion ensued on the restoration application of the beauty operator's license of Garret S. Villalba. Several Board members expressed concern about the lack of evidence of licensure in any state as a beauty operator

for a significant period of time (within the forfeiture period of thirteen years) and lack of demonstration that the applicant kept up his skills and knowledge during that period of time. A motion was made with a vote of five ayes (Vice-Chairperson Apao, Mr. Choi, Ms. Howard, Ms. Morioka, and Ms. Takano), and a vote of one nay (Chairperson Marugame) to deny the restoration of the beauty operator license of Garret S. Villalba. The motion carried to deny the restoration based on lack of evidence of licensure and skills.

Legislative
Proposals
Relating to
License
Reciprocity:

Mari'a Nelson provided to Board members copies of two (2) legislative proposals relating to license reciprocity along with a copy of the 2011 State Relations Reciprocity Report regarding reciprocity. Ms. Nelson stated that she initially brought these proposals for license reciprocity in August 2008 and is continuing to pursue this matter.

Ms. Nelson stated that if there is reciprocity, the processing of license applications would be consistently applied. Executive Officer Kai replied that the application process is consistent with complete applications being processed within 15-20 business days. She further stated that if an application is deficient, this would delay the processing time.

Ms. Nelson expressed her frustration with the Board which appeared to be changing its position on the legislative proposals. She stated that her first proposal included reciprocity for barbers, cosmetologists, and barber instructors; however, the Board had informed her that amendments would need to be made to delete barber instructors as the Board does not license these individuals. In her second proposal, she was asked why barbers were not included, which seems to be inconsistent with the Board's previously stated position. Board members clarified that while the first bill included barber instructors, the second should have included barbers (not barber instructors).

Ms. Nelson then requested that she be provided with clarification on what needs to be included in a proposal so that the Board would support her bill. Chairperson Marugame stated that the Board would need to review those revised legislative proposals first before taking a position. He asked whether one or the other or both proposals could be reviewed by the Board first; however, Ms. Nelson declined to respond, said that she did not like being "bullied" by the Chairperson, and abruptly left

the meeting. The Chairperson was stunned and offended by Ms. Nelson's characterization that he was acting like a "bully".

Examinations: A. Results of Barber Examination Administered
September 13-16, 2011

Executive Officer Kai provided the following results of the barbering examinations administered September 13–16, 2011:

Total Examinations Administered	29
Exams Passed 1 st Time	6
Exams Passed 1 st Time Percentage	20%
Total Examinations Passed	10
Total Passed Percentage	34%
Total Examinations Failed	19
Total Fail Percentage	66%

B. Use of Reader-Interpreters in Barber Licensing Examinations

Executive Officer Kai reiterated a request from Lauren Biddle of Prometric for the Board to consider amending the administrative rules for barbers to be consistent with the administrative rules for beauty operators, by prohibiting the use of reader-interpreters for the barber licensing examinations.

Ms. Takano left the meeting at 10:55 a.m.

Ms. Williams commented that barber examination candidates may need help in reading the examination in English as this is not their primary language, and further commented that foreign candidates are more prone to take the barber (rather than hairdresser or cosmetologist) examination because reader-interpreters are allowed.

Mr. Nelson commented that the current State exams administered by Prometric may be old and thus, the Board is seeing a low percentage of passing scores. He stated that when California switched to the NIC tests, their passing scores went up, which he indicated may be due to testing questions being current.

Board members requested that the Executive Officer request that Prometric gather data from all barber examinations administered in 2011 reflecting the number of examinees

who utilized reader-interpreters while taking the examination. The Board also requested the number of these exam candidates who passed or failed the exams.

Executive Officer's Report: A. Regulated Industries Complaints Office ("RICO") Barbering & Cosmetology Advisory Committee

The Regulated Industries Complaints Office ("RICO") provided to the Board for their review and approval, the RICO Barbering and Cosmetology Advisory Committee list – Effective January 1, 2012:

- Jessie L. Aki
- Lucrecia A. Whitehurst
- Lynnette F. McKay
- Margaret Williams

The RICO Barbering and Cosmetology Advisory Committee list also included "Addendum to RICO Barbering and Cosmetology List" which states that "The RICO Barbering and Cosmetology Advisory Committee also includes any additional interim appointees that RICO deems necessary to aid in its investigations."

After discussion, it was moved by Ms. Morioka, seconded by Mr. Choi, and unanimously carried to approve the RICO Barbering and Cosmetology Advisory Committee list and the Addendum language – Effective January 1, 2012.

B. Notifications from Department of Health Sanitation Branch regarding Beauty School Inspections

Executive Officer Kai reported that the Board received a memo from the Sanitation Branch of the DOH stating that its inspectors would no longer issue sanitation clearances for beauty schools because that service is not authorized in DOH's laws and rules. However, the DOH inspectors will continue to inspect beauty salons or beauty parlors and issue sanitation clearances accordingly. Ms. Kai expressed concern that this change would precipitate a new procedure in the processing of applications for beauty schools whereby a copy of this memo from DOH would be included in each beauty school license file together with the sanitation clearance for a "beauty shop". Board members had no objections to this change in procedures.

C. 2012 Schedule of Board Meetings

The 2012 schedule of Board meetings were provided to Board members as follows:

- February 8, 2012
- April 11, 2012
- June 13, 2012
- August 8, 2012
- October 10, 2012
- December 12, 2012

After discussion, it was moved by Ms. Morioka, seconded by Ms. Howard, and unanimously carried to approve the 2012 Board meeting dates.

Scope of Practice:

A. Licensed Esthetician Providing Waxing Services in a Chiropractic Office

Executive Officer Kai stated the Board received a telephone inquiry on whether an exemption from beauty shop licensure would apply to a Chiropractic office providing waxing services by a licensed esthetician, pursuant to HAR section 16-78-36(8) which states that "Persons employed by health care facilities who are providing care to patients" are exempt.

After discussion, the consensus of the Board was that a Chiropractic office may be a health care facility and therefore, exempt from licensure. The Board also noted that because the practice is done in a Chiropractic office, this may be under the purview of the Chiropractic Board.

Open Forum:

None.

Next Board Meeting:

Wednesday, December 14, 2011
9:00 a.m.
Queen Liliuokalani Conference Room
King Kalakaua Building, 1st Floor
Honolulu, Hawaii 96813

Announcements:

None.

Adjournment: There being no further business to discuss at this time, the meeting was adjourned at 11:35 a.m.

Taken and recorded by:



Lori Nishimura, Secretary

Reviewed and approved by:



Laureen M. Kai, Executive Officer

LMK:ln
11/10/11

- [] Minutes approved as is.
- [/] Minutes approved with changes. See Minutes of 12-14-2011

LTYPE	LIC NUM	BP NAME PART 1
BEO	18913	BRITTANY E <ANDREWS<
BEO	18914	MITSUE Y <BLEN<
BEO	18915	JENNILLEE <MCINNIS<
BEO	18916	SOPHIA L <SULLIVAN<
BEO	18917	TIANA L <RICHARDS<
BEO	18918	ANGELA N <CAVEN<
BEO	18919	HARUMI <IZUMI<
BEO	18920	NUONG <KEU<
BEO	18921	MELISSA M <SHIMOKAWA<
BEO	18922	JULIA S <LEE<
BEO	18923	NHUNG T T <NGUYEN<
BEO	18924	RACHEL K <RODRIGUES<
BEO	18925	SUSAN M <KEIM<
BEO	18926	DUC H <VUONG<
BEO	18927	LOREA <WONG<
BEO	18928	CHIAMARRA D <BATTILLA<
BEO	18929	VIRGIE A <BUTED<
BEO	18930	DEBRA J <LUJAN<
BEO	18931	MELISSA A <DELOUISE<
BEO	18932	MEGAN M <DOWTY<
BEO	18933	GRACE M <REYES<
BEO	18934	SHARON L W C <KIM<
BEO	18935	MARIANN <OHARA<
BEO	18936	TRINH T <DINH<
BEO	18937	CAROL J <FORTUNE<
BEO	18938	MYMY <HO<
BEO	18939	CHAU KIM THI <PHAM<
BEO	18940	JESSICA L <WEATHERHOLT<
BEO	18941	CORTEZ <BRYANT<
BEO	18942	NOBUKA <YONEKAWA<
BEO	18943	DEBRA M <PARZYCH<
BEO	18944	CHAMINADE AWAPUHI <ORNELLAS<
BEO	18945	SAMMY G <NAHOPII<
BEO	18946	ASHLEY M <VALENZUELA<
BEO	18947	CHERISH C <SERADILLA<
BEO	18948	COLIN U K <EDSMAN<
BEO	18949	MICHIKO <HAYASHI<

LTYPE	LIC NUM	BP NAME	PART 1
BAR	3336	RENEE M	<MCGOWAN<
BAR	3337	KEALA C K	<KALAULI<

LTYPE	LIC NUM	BP NAME	PART 1
BAS	1511	MADOKA <TSUBOKAWA<	LLC

LTYPE	LIC NUM	BP NAME PART 1
BSH	4772	ANGELA M <MESCON<
BSH	4773	AZUMI NAIL LIMITED LIABILITY COMPANY
BSH	4774	DISNEY VACATION DEVELOPMENT INC
BSH	4775	MARCIA K <GOENAGA<
BSH	4776	ENI'S SKINCARE STUDIO LLC
BSH	4777	ORANGE ELEPHANT LLC
BSH	4778	DESIRE SALON AND SPA LLC
BSH	4779	ANAPA LLC
BSH	4780	HOLLEY D <WARNER<