

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 10, 2012

Time: 9:00 a.m.

Place: King Kalakaua Conference Room
King Kalakaua Building
335 Merchant Street, 1st Floor
Honolulu, Hawaii 96813

Present: Lance M. Marugame, Barber Member, Chairperson
Lee Ann Apao, Cosmetology Member, Vice-Chairperson
Alexander Choi, Public Member
Chad Nelson, Public Member
Christobal Quintana, Barber Member
Rodney J. Tam, Deputy Attorney General
Laureen M. Kai, Executive Officer
Lori Nishimura, Secretary

Excused: Angela Howard, Public Member

Guests: 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.

Minutes of the
August 8, 2012
Board Meeting: It was moved by Vice-Chairperson Apao, seconded by Mr. Quintana, and unanimously carried to approve the minutes of the August 8, 2012 Board Meeting as circulated.

At 9:04 a.m., Deputy Attorney General ("DAG") Tam arrived to the meeting.

Chapter 91, HRS, A. In the Matter of the Beauty Shop License of Sy Duc Dang dba
Adjudicatory Kunia Nail Center, and the Beauty Operator's License of
Matters: Sy Duc Dang; BAR 2011-96-L

DAG Tam provided a brief summary of the case:

- Regulated Industries Complaints Office ("RICO") alleges that Respondents permitted an unlicensed person to perform activities which require a license;
- This is a violation of HRS section 439-19(a)(3), permitting an unlicensed person to perform activities which require a license.

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

- Respondents must pay a \$1,000 administrative fine;
- Should Respondents fail to fully and timely comply with the terms of the SA, Respondents' licenses shall be automatically revoked upon RICO's filing of an affidavit with the Board attesting to such failure; and
- The Board may pursue additional disciplinary action as provided by law as the Board deems appropriate.

After discussion, it was moved by Mr. Nelson, seconded by Mr. Quintana, and unanimously carried to approve the Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Board's Final Order.

Executive
Session:

At 9:08 a.m., it was moved by Vice-Chairperson Apao, seconded by Mr. Quintana, 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 10:00 a.m., it was moved by Vice-Chairperson Apao, seconded by Mr. Quintana, and unanimously carried for the Board to move out of Executive Session.

Applications: A. Ratification of Issued Licenses

It was moved by Chairperson Marugame, seconded by Mr. Quintana, and unanimously carried to ratify the list of issued licenses attached (see, attached list).

B. Examination and License

- (1) ABREU, Rita L. (Beauty Operator)
- (3) KAWAI, Janelle S.A. (Beauty Operator)
- (4) LUCKEY, Todd C. (Beauty Operator)

Executive Officer Kai reported the beauty training received by these applicants, as reflected on their beauty school transcripts, reflected training hours that were gained from a beauty school that was unlicensed during that period. Each applicant was sent a Notice of Deficiency from the Licensing Branch requesting that the applicant and/or the beauty school provide the dates and actual hours earned per subject category for further review and processing.

After discussion, it was moved by Vice-Chairperson Apao, seconded by Mr. Nelson, and unanimously carried to defer decision making on the examination and license applications for Rita L. Abreu, Janelle S.A. Kawai, and Todd C. Luckey, pending their responses to the Notice of Deficiency letters sent from the Licensing Branch.

At 10:04 a.m., it was moved by Mr. Choi, seconded by Mr. Nelson, 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).

EXECUTIVE SESSION

At 10:12 a.m., it was moved by Mr. Choi, seconded by Mr. Nelson, and unanimously carried for the Board to move out of Executive Session.

- (2) DUSENBERRY-LEE, Hokumalamalamaokalani T. (Barber)

After discussion, it was moved by Vice-Chairperson Apao, seconded by Mr. Choi, and unanimously carried to approve the barber application for examination and license for Hokumalamalamaokalani T. Dusenberry-Lee.

C. Apprentice Registration

- (1) NGUYEN, John Doan (Beauty Apprentice)

After discussion, it was moved by Vice-Chairperson Apao, seconded by Mr. Nelson, and unanimously carried to approve the beauty apprentice registration application for John Doan Nguyen.

D. Restoration of Licenses

- (1) DECKER, Edith H. (BEO 12730)

After discussion, it was moved by Vice-Chairperson Apao, seconded by Mr. Quintana, and unanimously carried to approve the restoration of the beauty operator's license of Edith H. Decker.

- (2) KAM-TOM, Jolene Q. (BEO 11758)

After discussion, it was moved by Vice-Chairperson Apao, seconded by Mr. Quintana, and unanimously carried to approve the restoration of the beauty operator's license of Jolene Q. Kam-Tom.

- (3) PATIGAYON, Charles S. (BAR 2190)

After discussion, it was moved by Vice-Chairperson Apao, seconded by Mr. Quintana, and unanimously carried to approve the restoration of the barber's license of Charles S. Patigayon.

E. Beauty School License

(1) Spa Luna LLC

Executive Officer Kai informed the Board that Spa Luna LLC is currently licensed as a beauty school (BSC 18) for the location at 810 Haiku Road, #209, Haiku, Hawaii 96708. The application for consideration is for the school's location at 70 E. Kaahumanu Avenue, Unit B7B, Kahului, Hawaii 96732. After discussion, it was moved by Vice-Chairperson Apao, seconded by Mr. Nelson, and unanimously carried to approve the application for a beauty school license (for its Kahului location) for Spa Luna LLC.

Scope of Practice: A. Licensees' Use of Myopulse and Acuscope Machines

Executive Officer Kai reported that the Board received a request from Christine Heath for a determination on whether the use of myopulse and acuscope machines is allowed by licensed cosmetologists and estheticians. Ms. Kai provided a brief description of the machines, which are also referred to as micro-current machines and are reportedly used by many professional athletes to reduce chronic pain from injuries and stimulate healing. Proponents of these machines also claim that their use offers holistic anti-aging treatment for facial contouring, body sculpting, cellulite reduction, massage, and deep relaxation. The Executive Officer also reported that her online research reflects practitioners' claims that these machines treat wrinkles, acne, scarring, and sun-damaged skin by repairing skin at the cellular level. Ms. Kai added that in the past, the Board has voted to prohibit the use of light and laser therapy by licensees.

Discussion ensued on the use of these machines by beauty operator and barber licensees. Vice-Chairperson Apao commented that she believes the use of these machines is not within the scope of practice, as it may involve blood vessels, nerves, and muscles. Mr. Choi commented that he supports technological advances in this profession, and volunteered, together with Vice-Chairperson Apao, to further research beautification and cosmetic treatments involving myopulse and acuscope machines.

Department of
Health Sanitation
Inspections of
Beauty Shops,
Barber Shops,
Beauty Schools:

Executive Officer Kai notified the Board that the Department of Commerce and Consumer Affairs (“DCCA”) received notification from the Department of Health (“DOH”) Sanitation Branch that it intends to introduce and support legislation to repeal requirements to conduct sanitary inspections of barber shops, and beauty establishments. DOH contends that there is little public health significance involved and therefore, will direct its resources to its mission of protecting the public in the areas of food safety, public swimming pools, and tattoo shops. Such legislation will then repeal the entire HAR chapter 11-11 and result in the elimination of “unnecessary government regulations that have very little or no public health impact”, as stated in the DOH’s notification to DCCA.

Discussion ensued in response to DCCA’s request for the Board’s position on the DOH proposal. Mr. Quintana commented that sanitation inspections are critical in ensuring that barber shops and beauty establishments comply with sanitation requirements as a prerequisite to licensure. Chairperson Marugame suggested opposing the bill because of concerns with public safety and health. After further discussion, it was moved by Vice-Chairperson Apao, seconded by Mr. Quintana, and unanimously carried to oppose the DOH proposal to repeal all requirements for it to conduct sanitary inspections of barber shops and beauty shops, either through legislation to repeal these provisions in its statutes or through amendments to its administrative rules.

Examinations:

A. Results of Barber Examinations Administered
September 11-14, 2012

Executive Officer Kai provided the following results of the barber examinations administered September 11-14, 2012:

Total Examinations Administered	47
Total Examinations Passed	15
Total Passed Percentage	32%
Total Examinations Failed	32
Total Fail Percentage	68%

Discussion ensued on the low percentage of passing scores, with Mr. Nelson commenting that the test questions may be outdated, while Vice-Chairperson Apao commented that technological distractions may also be a factor in the low scores, in addition to the high number of examination candidates for whom English is not the primary language.

Ms. Williams informed the Board that the successful percentages for pre-licensing exams taken by students at her barber school, the Hawaii Institute of Hair Design ("HIHD") are consistently higher. Students at HIHD take three to four practice examinations as part of their training. She is unsure as to why the failure percentages for the licensing examination are so high.

Legislation
and Rules:

A. 2012 Legislative Session

- (1) Act 247, Relating to Professional and Vocational Licensing (HB2257 HD1 SD1)

Executive Officer Kai reiterated that Act 247 (SLH 2012), effective July 1, 2012, allows a non-resident military spouse who applies for a license by endorsement or reciprocity to demonstrate competency in lieu of work experience. If the non-resident military spouse holds a current license in another state with licensure requirements that the Board deems to be at least equivalent to Hawaii's requirements, the license is to be granted pursuant to the statutes regarding licensure by endorsement or reciprocity.

Discussion ensued in response to DCCA's request for feedback on how best to implement the provisions of Act 247 (SLH 2012). Board members commented that since there are no provisions for beauty operator or barber licensure by reciprocity or endorsement in the Board's statutes, Act 247 (SLH 2012) may not be applicable. DAG Tam agreed that based on the specific language of Act 247 (SLH 2012), many provisions of this act do not appear to apply because HRS chapters 438 and 439 do not have provisions for licensure by reciprocity or endorsement.

- (2) Act 248, Relating to Professional and Vocational Licensing (HB2258 HD2 SD1)

Executive Officer Kai reiterated that Act 248 (SLH 2012), effective July 1, 2012 till June 30, 2022, provides a military service member the ability to use his/her documented training and experience that was gained while in the service to qualify for a Hawaii license. These provisions are meant to support veterans by recognizing

that military education, training, or service can be deemed substantially equal to the Board's requirements.

Discussion ensued in response to DCCA's request for feedback on how best to implement the provisions of Act 248 (SLH 2012). DAG Tam advised that each application should be reviewed on a case by case basis. Mr. Choi commented that such applicants may need to be asked to provide a more detailed description and verification of their military training and experience.

B. Hawaii Administrative Rules ("HAR")

(1) Proposed Amendments to HAR Chapter 16-73 (Barbering)

Chairperson Marugame announced that the Investigative Committee on HAR Chapter 16-73 ("IC 16-73"), (established by the Board at its August 8, 2012 meeting), would be meeting to discuss proposed amendments immediately after the Board meeting. He reiterated that the members of IC 16-73 are Mr. Quintana, Mr. Nelson, and himself, and stated that the committee hoped to have a report at the Board's next meeting.

(2) Proposed Amendments to HAR Chapter 16-78 (Cosmetology)

Chairperson Marugame requested an update from the Investigative Committee on HAR Chapter 16-78 ("IC 16-78"), (also established by the Board at its August 8, 2012 meeting). IC 16-78 members present at the meeting, Ms. Apao and Mr. Choi, stated that they would be scheduling a meeting at a later date and that IC 16-78 members (including Ms. Howard who was excused from today's meeting) would be conducting individual review and research until then.

Open Forum:

Executive Officer Kai announced that the Board had received a letter from State Representative Gene Ward requesting that the Board exempt the provision of "traditional African hair braiding" services from licensure through amendment of administrative rules. Ms. Kai further stated that such an exemption from licensure may require amendment of the Board's statutes, being that "traditional African hair braiding" falls in the definitions of a "cosmetologist" and "hairstylist" in HRS chapter 439 and within the definition of the "practice of barbering" in HRS chapter 438.

After discussion, the Board instructed the Executive Officer to respond to Representative Ward accordingly.

Next Board Meeting: Wednesday, December 12, 2012
9:00 a.m.
Meeting room to be determined
King Kalakaua Building
335 Merchant Street
Honolulu, Hawaii 96813

Announcements: The Executive Officer reminded Board members that the Board member orientation presented by the DCCA will take place on October 24, 2012 at the State Capitol.

Adjournment: There being no further business to discuss at this time, the meeting was adjourned at 10:51 a.m.

Taken and recorded by:

/s/ Lori Nishimura

Lori Nishimura, Secretary

Reviewed and approved by:

/s/ Laureen M. Kai

Laureen M. Kai, Executive Officer

LMK:ln
11/08/12

[X] Minutes approved as is.
[] Minutes approved with changes. See Minutes of _____.

LTYPE	LIC NUM	BP NAME PART 1
BAR	3390	NORELL N <FETTY<
BAR	3391	HYUNG NAM <SEO<
BAR	3392	DEVYNNE A <DACQUEL<
BAR	3393	NUDEE <EMBREY<
BAR	3394	XIANG <GAO<
BAR	3395	JULEE L <GIBSON<
BAR	3396	SHASTYNE K <LARGO-TABOSA<

LTYPE	LIC NUM	BP NAME PART 1
BAS	1525	HB CORPORATION
BAS	1526	DAWN M <PATTERSON<

LTYPE	LIC NUM	BP NAME PART 1
BEO	19335	TUYET MAI <TRAN<
BEO	19336	MIHO <MURAOKA<
BEO	19337	CAROLINE E <DEES<
BEO	19338	EMILIE K <ROUSE<
BEO	19339	MEI-GAN T <LAWSON<
BEO	19340	LAUREN A P <GARRIGAN<
BEO	19341	ASHLEY D <ARGUELLO<
BEO	19342	JAMIE A <MATHIS<
BEO	19343	LYNN <PAAOAO<
BEO	19344	ANZHELA N <COX<
BEO	19345	PHU NGOC <TRAN<
BEO	19346	CHI MY <HUYNH<
BEO	19347	ANH MY <HOANG<
BEO	19348	MAYUMI S <SOFFA<
BEO	19349	ERIN M <CLARK<
BEO	19350	JENNIFER T <COLOMA<
BEO	19351	AYA <DEAN<
BEO	19352	DAN NGOC <HUYNH<
BEO	19353	VAN XUAN <MAI<
BEO	19354	YUKO I <MASUDA<
BEO	19355	KANANI M <PAGLINAWAN<
BEO	19356	SOOYUN <PARK<
BEO	19357	JUNKO <SAITO<
BEO	19358	MARY BETH <VANDERPOOL<
BEO	19359	KANI'O K K <YEN<
BEO	19360	NAOMI K S <MEDEIROS<
BEO	19361	BRIDGIT C <NEIKIRK<
BEO	19362	CASSIE E <SAYLOR<
BEO	19363	TRANG NGUYEN <CHAR<
BEO	19364	LILIA M <PENSULA<
BEO	19365	JENELLE E <MARION<

LTYPE	LIC NUM	BP NAME PART 1
BSH	4900	CARLEEN L <KELEKOMA<
BSH	4901	CHIAMARRA D <BATTILLA<
BSH	4902	OLINDA & ASSOCIATES LTD
BSH	4903	KING PINE LLC
BSH	4904	THAI BEAUTY SPA LLC
BSH	4905	SHEAR BLISS LLC
BSH	4906	MAUI CONCIERGE SERVICE INC
BSH	4907	JUDE M <HERREERA<
BSH	4908	SALON TRENDY CORPORATION
BSH	4909	MARLA L <MADOLORA<
BSH	4910	LORI F <TAKAESU<
BSH	4911	LINDA M <APRECIO<
BSH	4912	NATURALLY HANDS AND SPA HAWAII LLC
BSH	4913	HAIR ART LLC
BSH	4914	SUPERCUTS CORPORATE SHOPS INC
BSH	4915	ZENZA MASSAGE & SPA LLC
BSH	4916	EVA P <WRIGHT<
BSH	4917	CTF KOA KEA HOTEL LLC
BSH	4918	CHRISTINE R <HENDRICKSON<

LTYPE	LIC NUM	BP NAME	PART 1
I	12388	RYAN J L	<CAMACHO<