

BOARD OF BARBERING AND COSMETOLOGY

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

MINUTES OF MEETING

Date: Wednesday, February 13, 2013

Time: 9:02 a.m.

Place: Queen Liliuokalani 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
Angela Howard, Public Member
Chad Nelson, Public Member
Christobal Quintana, Barber Member
Rodney J. Tam, Deputy Attorney General ("DAG")
Laureen M. Kai, Executive Officer
Lori Nishimura, Secretary

Absent: Alexander Choi, Public Member

Guests: Jessie Aki, Professor, Honolulu Community College
Jacque Flores, Paul Maria Salon
Elaine Kimura
Teresa Lambert

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 9:02 a.m. by Chairperson Marugame.

Additions/
Revisions to
Agenda: None.

Minutes of the
December 12,
2012 Board
Meeting:

It was moved by Vice-Chairperson Apao, seconded by Mr. Quintana, and unanimously carried to approve the minutes of the December 12, 2012 Board Meeting as circulated.

At 9:03 a.m., the Board recessed the meeting for adjudicatory matters.

Chapter 91, HRS,
Adjudicatory
Matters:

A. In the Matter of the Beauty Shop License of David Vu dba Nail-Palace, and the Beauty Operator's License of Tam Thi Do; BAR 2012-71-L

Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Board's Final Order was received and provided to the Board for review.

DAG Tam provided a brief summary of the case:

- o Uncontested Facts:
 - ✓ Respondent Nail-Palace is licensed as a beauty shop (BSH 4071); license expires 12/31/13;
 - ✓ Respondent Do is licensed as a beauty operator (BEO 15567); license expires 12/31/13, and Respondent Do is the designated operator-in-charge for Respondent Nail-Palace;
 - ✓ RICO alleges that Respondents permitted unlicensed persons to perform activities which require a license – a violation of HRS section 439-19(a)(3).
- o Terms of Settlement:
 - ✓ Respondents agree to pay a fine of \$500 (jointly and severally).

After discussion, it was moved by Mr. Quintana, seconded by Vice-Chairperson Apao, and unanimously carried to approve the Settlement Agreement Prior to Filing of Petition for Disciplinary Action and adopt the recommended order as the Board's Final Order in this matter.

Executive
Session:

At 9:06 a.m., it was moved by Mr. Quintana, 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), 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 9:38 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 Vice-Chairperson Apao, seconded by Mr. Quintana, and unanimously carried to ratify the list of issued licenses attached (see, attached list).

B. Examination and License

(1) ORDONEZ, Melissa A. (Beauty Operator – Nail Technician)

After discussion, it was moved by Mr. Quintana, seconded by Ms. Howard, and unanimously carried to approve the beauty operator application for examination and license for Melissa A. Ordonez.

C. Apprentice Registration

(1) OLIVER, Kana'i A. (Beauty Operator Apprentice)

Discussion ensued on the application for beauty operator apprentice registration of Kana'i A. Oliver. Mr. Oliver did not complete his high school education, as required in Hawaii Administrative Rules section 16-78-19(a), but provided a letter from Kapaa High School confirming that he will obtain his high school diploma once he completes 2.5 credits from its online program, which should be in the near future. Mr. Oliver requested the Board's approval to start his apprenticeship before attaining his high school diploma.

Discussion ensued on the differing high school completion requirements of an apprentice for barber and for beauty operator. After discussion, it was moved by Vice-

Chairperson Apao, seconded by Ms. Howard, and unanimously carried to deny the beauty operator apprentice registration application for Kana'i A. Oliver pursuant to HAR section 16-78-19(a), which requires an apprentice applicant to submit verification of having an education equivalent to the completion of high school.

D. Restoration of Licenses

(1) LAI, Nguyen (BEO 14129)

After discussion, it was moved by Vice-Chairperson Apao, seconded by Ms. Howard, and unanimously carried to approve the restoration of the beauty operator's license of Nguyen Lai.

Executive Officer Kai requested that the Board take up agenda item #9, Open Forum, to allow Teresa Lambert, who was present at the meeting, to address the Board about her concerns regarding massage therapists providing esthetics services in hotel salons and in guest rooms. There were no objections.

Open Forum:

A. Theresa Lambert, Regarding Massage Therapists Providing Esthetics Services in Hotel Salons and in Guest Rooms

Teresa Lambert introduced herself, a licensed beauty operator in the esthetician and nail technician categories, present at the meeting to express her concerns on the practice of cosmetology without a license by massage therapists in the hotel salon and spa industry throughout the state. She provided a handout to the members and asked that they follow along as she read it. Her presentation included the following points:

- o Body scrubs and body wraps, which are within the scope of practice of licensed estheticians and cosmetologists, are being performed by massage therapists at hotel salons and spas;
- o In hotel salons and spas, massage therapists take precedence over estheticians in providing services that exfoliate the skin;
- o Massage therapists do not treat the skin; they are not taught these treatments in school;

- Facials are described as “face treatments” at hotel salons and spas and, as long as there are no use of brushes, tweezers, or extractors, they can be provided by massage therapists and not estheticians;
- There are no exemptions provided in the Massage Therapy statutes or rules that allow massage therapists to practice cosmetology;
- Use of moisturizers, body masks, sugar and salt body scrubs are not commonly used in massage; they are commonly used in the practice of esthetics and cosmetology;
- Massage therapists are not taught in schools to cleanse, exfoliate, detoxify, and moisturize skin; these treatments are taught to massage therapists by hotel salons and spas so that they do not have to hire estheticians and cosmetologists and can have all beauty services provided by massage therapists;
- In addition to allowing massage therapists to provide esthetic services such as exfoliating, re-hydrating, moisturizing, nourishing, softening and detoxifying skin, some also offer hair conditioning treatments and foot baths with elements of massage;
- These types of services provided by massage therapists are clearly violations of the cosmetology laws and rules because they are evidence of practicing outside of their scope of licensure.

Ms. Lambert stated that she did call the Regulated Industries Complaints Office (“RICO”) and was assured by RICO that she was correct in her claims and that the services advertised and offered by hotel salons and spas fall within the scope of an esthetician or cosmetologist. The RICO representative urged her to file complaints against those establishments, as RICO can do nothing without a written complaint. Ms. Lambert commented that she did not want to file a complaint, even anonymously, as it may affect the employment status of her colleagues. She stated that she asked RICO to enforce the laws and rules and notify the hotel salons and spas that although they teach massage therapists about skin care techniques, the provision of these services constitutes the practice of cosmetology without a licensure. RICO then suggested that she address the Board to request that it

remind hotel salons and spas that they are to follow the laws and rules of the Board.

Board members discussed the issues that were brought up by Ms. Lambert. It was noted that any notification about the proper scopes of practice of both professions would have to be sent to all licensed salons and shops, and that the resources needed to accomplish this were limited.

DAG Tam commented that Ms. Lambert should check with the Massage Board as to the scope of the practice of massage therapists, as this Board cannot unequivocally state that only licensed estheticians or cosmetologists are allowed to provide any particular service. He also informed her that there can be overlapping scopes of practices in different professions. In this case, some of the activities she mentioned could also be construed to constitute the practice of massage therapy. Thus, some activities could be performed by both estheticians/cosmetologists and massage therapists. Ms. Lambert reiterated that she had discussed the issue with the staff of the Massage Board; however, she is willing to follow up on this by addressing the Board itself.

The Board thanked Ms. Lambert for her presentation.

At 10:20 a.m., DAG Tam left the meeting.

Examinations: A. Results of Barber Examinations Administered in December 2012

Executive Officer Kai provided the following results of the barber examinations administered in December 2012:

Total Exams Administered	47
Exams Passed 1 st Time	5
Exams Passed 1 st Time Percentage	10%
Total Exams Passed	13
Total Exams Failed	34
Total Percentage Passed	27%
Total Percentage Failed	73%

B. Results of Cosmetology Examinations Administered in January 2013

Executive Officer Kai provided the following results of the cosmetology examinations administered in January 2013:

	EXAMS ADM	PASSED	FAILED	% PASS	% FAIL
COSMETOLOGY	83	37	46	45%	55%
HAIRDRESSER	17	8	9	48%	52%
NAIL TECHNICIAN	77	20	57	26%	74%
ESTHETICIAN	68	33	35	49%	51%
INSTRUCTOR	6	5	1	84%	16%
TOTALS	251	103	148	42%	58%

At 10:21 a.m., Chairperson Marugame called for a short recess.

At 10:26 a.m., Chairperson Marugame reconvened the meeting.

2013 Legislative Session:

A. House Bill No. 1464, Relating to Hair Braiding

The Board was provided a copy of House Bill No. 1464, relating to hair braiding. Executive Officer Kai stated that the purpose of this proposed bill is to clarify that the practice of hair braiding by hand for commercial purposes is not subject to the licensing requirements for barbers under chapter 438 nor the licensing requirements for hairdressers and cosmetologists under chapter 439; and to establish less burdensome licensing requirements for practitioners of hair braiding. She added that the proponents of the bill believe that licensing is unnecessary for the reasonable regulation of hair braiding which does not require the use of chemicals or equipment that could harm consumers if used improperly.

The Executive Officer expressed concern that the proposed bill, in carving out a part of the scope of practice of a hairdresser, cosmetologist, and barber, would result in a new

regulatory category which would require a separate examination and a unique training curriculum for both schools and apprenticeships. She stated that she had sent inquiries to the Board's testing service, Prometric, as well as a few beauty schools requesting input; however no responses had been received. She thanked Ms. Jessie Aki, Professor in the Cosmetology Program at the Honolulu Community College, for attending the meeting to provide feedback on the proposed measure.

Ms. Aki began by stating that she is not against the bill but is concerned that it appears to separate a particular service from the scope of services that are currently allowed to be provided by barbers, hairdressers, and cosmetologists. She felt that the exclusion of hair braiding services from the statutory definitions of a hairdresser, barber, and cosmetologist will result in a hairdresser or cosmetologist or barber not being able to braid hair without also becoming licensed as a hair braider.

Ms. Aki commented that the bill has no mention of the minimum education required for licensure, whereas hairdressers and cosmetologists are required to have a high school education or equivalent. She further commented that the proposed beauty training requirement is very vague as there is no inclusion of training in bacteriology, draping, scalp and hair care, and other subjects that should be included. In addition, there is no mention of where the practice of hair braiding would be allowed to be performed.

Ms. Aki stated that she has done a lot of research on the regulation of hair braiding in other states and briefly provided a synopsis of some of her findings about regulation in twenty-five (25) states. She has found that three (3) of those states regulate hair braiding by requiring a license based on 300 hours of training. She added that Washington, D.C. has a "specialty" license for hair braiders. She also found that the National-Interstate Council of State Boards of Cosmetology, administrator of the national examinations accepted by other state boards, administers a written and practical examination on "natural cosmetology", which, she believes, is another name for hair braiding.

Executive Officer Kai asked Ms. Aki for her position on the proposal should her concerns be addressed as amendments to the current bill. Ms. Aki responded that she strongly opposes the bill as currently written but that there may be a compromise if the bill is amended to not exclude hair braiding in the scopes of practice of barbers, hairdressers, and cosmetologists. She further stated that amendments regarding the minimum age and minimum education or training should be made to the bill, and further that such training should include the understanding of the basic theory of physiology, disorders of the scalp and hair, and bacteriology, as well as practice topics including draping, sanitation, and disinfection, and also knowledge of the Board's laws and rules relating to hair braiding.

Ms. Aki described a hair braiding training curriculum that she had formulated, which would require 200 hours of beauty training at a licensed beauty school or 400 hours in equivalent apprenticeship, with subject areas of theory, shop management, scalp and hair treatments, and braiding and hair extensions. She noted that this curriculum could be expanded to require 300 hours of school training as required by most other states that regulate hair braiding.

Vice-Chairperson Apao commented that she agrees with Ms. Aki's concerns about beauty training, especially with respect to sanitation issues and the exclusion of hair braiding in the current definitions. After further discussion, it was moved by Vice-Chairperson Apao, seconded by Mr. Quintana, and unanimously carried that the Board take the following position on House Bill No. 1464:

- The minimum age for licensure is 16 years of age;
- The minimum education required for licensure is the completion of high school or its equivalent;
- The inclusion/retention of hair braiding services in the scope of practice for the licensure categories of hairdresser, cosmetologist, and barber;
- The practice of hair braiding must be performed in a licensed beauty shop;
- There is concern about whether the Board's testing service can create a new testing examination within the current contract;

- o Apprenticeship training (at double the number of hours of the school training requirement) must be included;
- o The Board has received assurances from the cosmetology program at Honolulu Community College that a separate training curriculum for hair braiding can be created and implemented;
- o The training curriculum should be set at 200 to 300 school hours and at 400 to 600 apprenticeship hours.

Executive Officer Kai commented that the 2013 Legislative Session is the first year in a two year legislative cycle; therefore, any bills not passing this year may be considered at the next session of 2014.

Hawaii
Administrative
Rules ("HAR"):

A. Report from the Investigative Committee on Amendments to HAR Chapter 16-73 (Barbering)

The Investigative Committee reported that they had met with Margaret Williams of the Hawaii Institute of Hair Design (barber school), and that the committee will be scheduling a meeting after the next scheduled Board meeting.

B. Report from the Investigative Committee on Amendments to HAR Chapter 16-78 (Cosmetology)

Executive Officer Kai suggested that this Investigative Committee may want to seek assistance from Elaine Kimura, past Board member and a licensed beauty operator, and also from Jessie Aki. Both Ms. Kimura and Ms. Aki agreed that they may be able to provide input. The committee will be meeting after the next scheduled Board meeting.

Next Board
Meeting:

Wednesday, April 10, 2013
9:00 a.m.
King Kalakaua Conference Room
King Kalakaua Building
335 Merchant Street, 1st Floor
Honolulu, Hawaii 96813

Announcements: None.

Adjournment: There being no further business to discuss at this time, the meeting was adjourned at 11:05 a.m.

Taken and recorded by:

/s/ Lori Nishimura

Lori Nishimura, Secretary

Reviewed and approved by:

/s/ Lauren M. Kai

Lauren M. Kai, Executive Officer

LMK:ln

03/13/13

[X] Minutes approved as is.

[] Minutes approved with changes. See Minutes of _____.

LTYPE	LIC NUM	BP NAME PART 1
BEO	19478	JACOB N <TAPEC<
BEO	19479	DESHA K <EVAIMALO<
BEO	19480	DIANE L <SERRANO<
BEO	19481	KIMBERLY-MAY <ARELLANO<
BEO	19482	BICH NGOC <NGUYEN<
BEO	19483	MARIA T <ROTH-TIJERINA<
BEO	19484	STEPHANIE <STEWART<
BEO	19485	SARA M <BYRD<
BEO	19486	MARRISSA K <MACDONALD<
BEO	19487	ROSELYN G <BELTRAN<
BEO	19488	CHRISTINA J <HODGES<
BEO	19489	NICOLE J <VANNATTA<
BEO	19490	CORI M <YASUHARA<
BEO	19491	AMANDA J <SEVERSON<
BEO	19492	BREE M <CAGAMPANG<
BEO	19493	KAMAN <LI<
BEO	19494	CHANBI <KIM<
BEO	19495	EUN HAE S J <SALANOVA<
BEO	19496	HEIDI L <TALBOTT<
BEO	19497	CHERISH H <ADAMSON<
BEO	19498	MALYSA M <SCIBELLI<
BEO	19499	ELAINE A <RUPPERT<
BEO	19500	TOSHIE <TAKAHASHI-RUIZ<
BEO	19501	TIHANA H <LINCOLN<
BEO	19502	BETTINA K <BARTCH<
BEO	19503	DANIEL F <SA<
BEO	19504	TOMOKO <TAKUMI<
BEO	19505	BRIANA K E <SANDOVAL-PADAYHAG<
BEO	19506	KIM THAO <SOUZA<
BEO	19507	TRISHA Y <CASTILLO<
BEO	19508	DOROTHY R <KIRK<
BEO	19509	JOSEPHINE C A <WHEELER<
BEO	19510	LESLEY K <HONG<
BEO	19511	UT <TRAN<
BEO	19512	BARBRA M <OGLE<
BEO	19513	HIROMI <MCBRIDE<
BEO	19514	JANELLE R <RABAGO<
BEO	19515	MICHELLE L <STEGALL<
BEO	19516	KARA M <KEARNS<
BEO	19517	AKIE <MATSUI<
BEO	19518	MICHELLE L <OLIVER<

LTYPE	LIC NUM	BP NAME PART 1
BSH	4955	SAO THIANH <NGUYEN<
BSH	4956	HEAVEN ON EARTH INC
BSH	4957	IVY P <CAMPBELL<
BSH	4958	LEINAALA J E <KEOMALU<
BSH	4959	FRANCIS <MARTIN<
BSH	4960	PH & F LLC DBA MASSAGE ENVY SPA
BSH	4961	SUSAN M <CORDOVA<
BSH	4962	LUSH HAIR & BOUTIQUE INC
BSH	4963	BOBBIELYNN <MARSHALL<
BSH	4964	WINAM HAIR STUDIO LLC
BSH	4965	JUVY C <VENTURA<
BSH	4966	CARRIE M N S <KIMURA-AYOSO<
BSH	4967	WYNN Y. <ICHISHITA<
BSH	4968	T'S HAIR & NAIL SALON LLC
BSH	4969	KAILEE & SO INC
BSH	4971	SUSAN A <MILLER<
BSH	4972	NAIL STARS LLC
BSH	4973	LAINIE K <SOUZA<
BSH	4974	HEESUN <KWAK<
BSH	4975	ANGEL'S NAIL SMART LLC
BSH	4976	MARILYN J <DAVIS<
BSH	4977	CURTIS ESSENTIAL DREAM VACATIONS LLC
BSH	4978	W P X COMPANY INC
BSH	4979	PALMS BEAUTY SPA LLC
BSH	4980	KRISTINA Y <NOVOLODSKAYA<
BSH	4981	MIKO M <HIOKI<
BSH	4982	HILO MASSAGE CLINIC AND DAY SPA LLC

LTYPE	LIC NUM	BP NAME PART 1
BAR	3412	HONG TON <KHA<
BAR	3413	GIANG VI <PHUONG<
BAR	3414	MALCOM <FRANKLIN<
BAR	3415	CINDY THAO <LE<
BAR	3416	SOMMER D <BIRKETT<
BAR	3417	THUNGA <NGUYEN<
BAR	3418	ANH TUAN CUU <NGUYEN<
BAR	3419	JACQUELINE C <GAOIRAN<
BAR	3420	CORRIE-LEIGH A K <ROMBAOA<
BAR	3421	DESIREE A R <ROACHE<
BAR	3422	MELANEY L <WHITE<

LTYPE	LIC NUM	BP NAME PART 1
BAS	1531	D A'S HAIRSTYLE LLC
BAS	1532	DANNY HUNG <DANG<
BAS	1533	ANTHONY A <ACIA<
BAS	1534	BEAUTY BY ZEN LLC
BAS	1535	LAURA HANH <NGUYEN<
BAS	1536	JENNIFER A <SIACUNCO<