

BOARD OF BARBERING AND COSMETOLOGY
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

MINUTES OF MEETING

Date: Wednesday, May 15, 2013

Time: 9:03 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
Laureen M. Kai, Executive Officer
Lori Nishimura, Secretary

Excused: Alexander Choi, Public Member
Christobal Quintana, Barber Member
Rodney J. Tam, Deputy Attorney General ("DAG")

Guests: Lynnette F. McKay, Honolulu Community College
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 9:03 a.m. by Chairperson Marugame.

Additions/
Revisions to
Agenda: None.

Chairperson Marugame informed the Board that he had bumped into Deputy Attorney General ("DAG") Tam on the way to the meeting and that DAG Tam stated that he would not be attending the meeting.

Minutes of the
March 20,
2013 Board
Meeting:

It was moved by Vice-Chairperson Apao, seconded by Ms. Howard, and unanimously carried to approve the minutes of the March 20, 2013 Board Meeting as circulated.

Executive
Session:

At 9:04 a.m., it was moved by Vice-Chairperson Apao, 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).

EXECUTIVE SESSION

At 9:50 a.m., it was moved by Ms. Howard, seconded by Mr. Nelson, and unanimously carried for the Board to move out of Executive Session and to immediately recess the meeting.

At 9:55 a.m., the Board reconvened its scheduled meeting.

Applications:

A. Ratification of Issued Licenses

It was moved by Vice-Chairperson Apao, seconded by Ms. Howard, and unanimously carried to ratify the list of issued licenses attached (see, attached list).

B. Examination and License

(1) EVANS, Jessica D. (Beauty Instructor)

After discussion, it was moved by Ms. Howard, seconded by Mr. Nelson, and unanimously carried to defer decision making on the beauty instructor application for examination and license for Jessica D. Evans, pending clarification of her beauty instructor training.

C. Restoration of Licenses

(1) CHOW, Janis K. (BEO 8079)
n.k.a. YOUNG, Janis K.

After discussion, it was moved by Ms. Howard, seconded by Mr. Nelson, and unanimously carried to approve the restoration of the beauty operator license of Janis K. Chow, n.k.a. Janis K. Young.

(2) GATLIN, Francese P. (I 7362)

After discussion, it was moved by Ms. Howard, seconded by Mr. Nelson, and unanimously carried to approve the restoration of the beauty instructor license of Francese P. Gatlin.

(3) GONZALEZ, Shantel M. (BSH 3212)

After discussion, it was moved by Ms. Howard, seconded by Mr. Nelson, and unanimously carried to approve the restoration of the beauty shop license of Shantel M. Gonzalez.

(4) LILJENGREN, Toni K. (I 10922)

After discussion, it was moved by Ms. Howard, seconded by Mr. Nelson, and unanimously carried to approve the restoration of the beauty instructor license of Toni K. Liljengren.

(5) WOOD-FERREN, Richann E. (BEO 13426)

After discussion, it was moved by Ms. Howard, seconded by Mr. Nelson, and unanimously carried to approve the restoration of the beauty operator license of Richann E. Wood-Ferren.

Makana Esthetics
Wellness Academy
LLC (BSC 27):

Executive Officer Kai stated that the Board that had received a beauty instructor license application wherein the applicant's training transcript was issued by Makana Esthetics Wellness Academy LLC ("Makana") (License No. BSC 27). Ms. Kai stated that her review of the applicant's application, which includes comparison of the training transcript against Makana's beauty instructor training curriculum, noted that Makana's file reflected the Board's approval of its curriculum for esthetics training; however, there was no evidence of an approved beauty instructor training curriculum.

Executive Officer Kai also informed the Board that she spoke with Malia Sanchez, Principal of Makana, concerning the school's curriculum. Ms. Sanchez affirmed that Makana had been approved for both curriculums, beauty instructor training and esthetics, when it was originally issued a license by the Board on

November 5, 2007. Ms. Kai requested that Ms. Sanchez provide copies of Makana's records that would verify that a beauty instructor training curriculum had been approved as part of Makana's original beauty school license application.

In addition to reviewing Makana's original license application file, the Board reviewed the following documents that Ms. Sanchez provided as evidence of the Board's approval of Makana's beauty instructor curriculum, subsequent to her telephone conversation with the Executive Officer:

- 600 Hour Instructor Trainee Curriculum Program (undated);
- Code of Ethics Conduct for Instructors and Instructor Trainee (undated);
- Instructor Trainee Acknowledgment of Makana Guidelines (dated 2007);
- Instructor Trainee Tuition Plan (undated); and
- Transcript of Hours earned and Completion of Makana's Esthetics Instructor Trainee 600 hr Course (undated).

Discussion ensued on whether Makana's original license application file and the recently-received documentation provided evidence of the Board's approval of a beauty instructor training curriculum (in addition to an esthetics training curriculum).

After discussion, it was moved by Mr. Nelson, seconded by Vice-Chairperson Apao, and unanimously carried that it is the Board's determination that, based on its review of both Makana's original license application file and the additional documentation provided by Ms. Sanchez, there is no evidence that a beauty instructor training curriculum had been approved by the Board. At the time of licensure and subsequent to the licensure date of November 5, 2007, a beauty instructor training program had not been included in the Board's approval. Therefore, the Board has determined that Makana is not approved to provide a beauty instructor training curriculum, and that all activity relating to the beauty instructor training curriculum must cease. The motion included the Board's instruction to the Executive Officer to transmit a letter to Makana to cease its provision of an instructor training program and to refer the matter to the Regulated Industries Complaints Office, as Makana's provision of a beauty instructor training curriculum without the Board's approval is determined to be a violation of the Board's laws and rules.

Sanitation
Inspections of
Beauty Shops,
Barber Shops,
and Beauty
Schools by The
Department of
Health:

Executive Officer Kai reiterated that the Board received notification, in letters dated February 12, 2013 and February 19, 2013 from the Department of Health ("DOH"), that the DOH will no longer inspect barber shops, beauty shops, and beauty schools for the purpose of issuing sanitation certificates after April 1, 2013. The DOH no longer deems that routine inspections are needed to protect public health, and its statutes do not require the issuance of sanitation inspection certificates to businesses regulated by the Department of Commerce and Consumer Affairs ("DCCA").

She further reiterated that DOH will continue to regulate the sanitation requirements, and will investigate health-related complaints against barber shops, beauty shops, and beauty schools from the general public or other agencies that the DOH feels may impact public health.

At the Board's last meeting, DAG Tam advised the Board that an application for licensure could not be denied due to an applicant's failure to fulfill the requirement of obtaining a sanitation certificate from DOH; thus the Board voted to institute the following course of action to be followed for the processing and approval of barber shop, beauty shop, and beauty school license applications:

1. Effective April 1, 2013, an applicant for a barber shop, beauty shop, or beauty school license will not be required to provide a sanitation certificate from the DOH since the DOH has stopped issuing these certificates; thus, a copy of the February 12, 2013 and the February 19, 2013 letters from DOH shall be placed in each applicant's license file to provide an explanation as to why the requirement could not be met;
2. The license application forms and instructions for each license would be revised to reflect this new procedure;
3. The decision would be reflected on the Board's webpage; and
4. The requirement that shops and schools comply with the DOH's sanitation standards remains unchanged, with the DOH continuing to investigate health-related complaints from the public and other agencies that the DOH feels may impact public health.

Executive Officer Kai informed the Board that subsequent to the Board's last meeting, a consultation with the DCCA Director's Office resulted in the recommendation of the following proposed

procedures to augment the procedures that were approved by the Board at its March 20, 2013 meeting:

1. Application forms include a self-attestation that the applicant certifies that s/he read, understands, and agrees to comply with all laws and rules pertaining to the Board of Barbering and Cosmetology, including but not limited to HAR chapter 16-73, 16-78, and 11-11 (DOH, sanitation rules), and HRS chapter 436B, 438, and 439. The Executive Officer informed the Board that such an attestation is already included in all applications for a barber shop, beauty shop, and beauty school license;
2. Require a letter signed by operator-in-charge and owner, officer, director, partner, or member of the entity, as applicable, that describes the beauty or barbering activity that will be performed;
3. Require a copy of the written agreement with the owner, manager, or rental agent of the venue citing to their knowledge and authorization for the activity, making certain that the name of the shop is cited in the agreement;
4. Require a drawing or sketch of the venue showing the surrounding area and the stall/booth that the applicant will occupy, where the restroom(s) are located, and shall be on non-lined letter-sized paper;
5. Require this of all types of premises – not only “brick & mortar” type but also open-air markets, farmers’ markets, swap meetings, flea markets, shopping center kiosks or booths, tents, beach or pool cabanas, etc.; and
6. Add a link to the DOH sanitation rules from the Board’s website.

Executive Officer Kai then informed the Board that should these proposed procedures be adopted, the licensing procedure would also be amended to route all applicable license applications to the Board for review and approval. Currently the Licensing Branch processes and approves such applications and the Board ratifies that approval at a subsequent meeting. Executive Officer Kai informed the Board that a total of 221 such applications were received and processed over the past eighteen (18) months, which is an average of thirteen (13) beauty shop applications and two (2) barber shop applications a month which would be presented to the Board for its review and approval.

Mr. Nelson suggested posting to the Board's website samples of documents that applicants may refer to, to aid them with complying with the proposed procedures. He commented that this may alleviate phone call inquiries concerning compliance with the new procedures.

After discussion, it was moved by Vice-Chairperson Apao, seconded by Mr. Nelson, and unanimously carried to approve the proposed procedures suggested by the DCCA to be implemented in addition to the Board's previously approved procedures. The Board also approved the procedure of a Board member reviewing the applications prior to the Board meeting and providing approval or denial recommendations to the Board at each meeting. Board members would be assigned to this application review on a rotating basis.

Discussion followed concerning the effective date of the new procedures. The Board's consensus was that as soon as the applications are updated and on-line, the new procedures will become effective.

Executive
Officer's Report:

A. Inquiry Regarding Temporary Tattooing with Use of Hemp or Henna

Executive Officer Kai reported that the Board received an inquiry on whether tattooing on skin using henna dyes that are temporary, lasting four (4) to five (5) days, is within the scope of practice of a beauty operator (esthetician or cosmetologist) or barber. The inquirer stated that this practice is similar to face painting and that tar-based inks (which in the past had caused adverse skin reactions and health issues) are no longer used.

Discussion ensued on the Board's past determination that temporary cosmetic tattooing does not fall within the definition of cosmetology and esthetics. Discussion also ensued on the adverse reactions of henna dyes, including permanent scarring of the skin, that the Board was apprised of by a consumer at its February 9, 2011 Board meeting.

Ms. Williams commented that this practice is an Indian religious custom or tradition. Ms. Howard commented that this practice is not within the scope of this Board. The consensus of the Board was to reaffirm its determination that

temporary tattooing using henna or henna dye is not within the scope of practice of a beauty operator or barber, and would therefore not require the individual providing such services to have a beauty operator or barber license.

B. Upcoming Change in Licensee ID Cards

Executive Officer Kai reported that the ongoing request for the licensee's beauty operator category to be printed on the licensee's pocket ID card has been granted. Starting April 23, 2013, beauty operator pocket ID cards generated by the Licensing Branch will include the category or categories that a licensee is licensed to practice, i.e. cosmetologist, hair dresser, esthetician, and nail technician. Ms. Kai further reported that this should assist the Regulated Industries Complaints Office and the public by providing an immediately visible and accessible way to determine whether a licensee is working within their license category(ies) and scope(s) of practice.

State
Authorization
Regulations
Issued by the
U.S. Department
of Education:

Executive Officer Kai stated that DAG Tam had earlier been instructed by the Board to provide advice and comments on the course of action that the Board would need to take relating to the state authorization issue that was presented at the last Board meeting by Joannie Rossiter, State Liaison of the American Association of Cosmetic Schools Government Relations Committee. At that meeting on March 20, 2013, Ms. Rossiter had informed the Board that, as the legal authority authorized by the State of Hawaii to grant licensure to institutions offering postsecondary educational programs in cosmetology, it must provide information to the U.S. Department of Education ("DOE") in accordance with the U.S. DOE's State Authorization Regulations that concern state oversight and approvals for postsecondary institutions. The compliance date is July 1, 2013, after which postsecondary institutions that are not compliant may lose their eligibility to participate in Title IV Federal Student Aid programs.

As promised at the meeting, Ms. Rossiter provided to the Executive Officer the notification from the U.S. DOE (the "Dear Colleague" letter) and a sample letter for the Board to use in complying with the requirements. The Executive Officer informed the Board that she had received these documents that same day via email and had immediately forwarded them to the Board and DAG Tam, requesting his expeditious review so that the Board could take action at this meeting based on his review and advice.

Due to DAG Tam's absence, the Board deferred decision-making on this matter until he reported back with his advice and comments, specifically because DAG Tam had instructed the Board to await his recommendations. The Board noted that an additional Board meeting may be needed in order to meet the July 1, 2013 deadline, as the next scheduled Board meeting is July 24, 2013. Chairperson Marugame volunteered to check with DAG Tam on his availability to determine possibly scheduling a Board meeting prior to the deadline.

Examinations:

A. Results of Barber Examinations Administered on March 4-8, 2013

Executive Officer Kai provided the following results of the barber examinations administered on March 4-8, 2013:

Total Exams Administered	41
Exams Passed 1 st Time	11
Exams Passed 1 st Time Percentage	26%
Total Exams Passed	17
Total Exams Failed	24
Total Percentage Passed	41%
Total Percentage Failed	59%

Hawaii
Administrative
Rules ("HAR"):

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

The Investigative Committee reported that it had met after the Board's March 20, 2013 meeting and is continuing its work on proposed amendments to HAR chapter 16-73, and will report its findings to the Board at a future meeting.

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

The Investigative Committee reported that it had met after the Board's March 20, 2013 meeting and is continuing its work on proposed amendments to HAR chapter 16-73, and will report its findings to the Board at a future meeting.

Open Forum:

Ms. McKay inquired about the practice of the removal of hair by threading being conducted in a shopping mall kiosk. The Board reiterated its determination made in past Board meetings, that

threading for commercial purposes falls within the scope of practice of a licensed esthetician, cosmetologist, and a barber; thus, the activity must be conducted in a licensed beauty or barber shop.

Next Board Meeting: Wednesday, July 24, 2013
9:00 a.m.
Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, 1st Floor
Honolulu, Hawaii 96813

Announcements: Mr. Nelson announced that he would not be able to make the Board's July 24, 2013 meeting.

Adjournment: There being no further business to discuss at this time, the meeting was adjourned at 10:39 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

06/13/13

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

LTYPE	LIC NUM	BP NAME PART 1
BEO	19567	SABRINA M <WRIGHT<
BEO	19568	SUSAN L <LUSCOMBE<
BEO	19569	ELISA M <DELGADO<
BEO	19570	AYA <OSAKO<
BEO	19571	KALEE J <ELLISON<
BEO	19572	KATHRYN L S W <DI PALMA<
BEO	19573	KATHERINE E <CLARK<
BEO	19574	KATIE J <BERTACCHI<
BEO	19575	MAILE E <SOON<
BEO	19576	DUNG THI NGOC <PHAM<
BEO	19577	KARI P K <UYEHARA<
BEO	19578	CRYSTAL F <COUVILLION<
BEO	19579	CHARITY C <ALLAN<
BEO	19580	THUY VAN THI <HUYNH<
BEO	19581	AMELIA <VAN DER WESTHUIZEN<
BEO	19582	DAWN <REILLY<
BEO	19583	TABATHA S <BROWN<
BEO	19584	SARAH E <MADDEN<
BEO	19585	RHIANNA N <O'CONNOR<
BEO	19586	SARAH L <SAGARANG<
BEO	19587	JILLIAN R <SAXMAN<
BEO	19588	ALISA K <MILITAR<
BEO	19589	VIELKIS M <AVILA ALVAREZ<
BEO	19590	KARRAH N K <BEAUDET<
BEO	19591	BRIDGET K <HOWDESHELL<
BEO	19592	RHONDA M <CRAIG<
BEO	19593	SOO HYUN <CHUN<
BEO	19594	CASSANDRA Y <LEWIS<
BEO	19595	DESIREE H K <DELOS REYES<
BEO	19596	RACHEL A <ROBINSON<
BEO	19597	DANI L <MONTAGUE<
BEO	19598	MINH DUC <NGUYEN<
BEO	19599	ANTHONY THANH LIEM <NGUYEN<
BEO	19600	JACKALINE <SUEN<
BEO	19601	KELLY L <OSATO<
BEO	19602	JENNIFER M <O'RIORDAN<
BEO	19603	KATHRYN L <MORRIS-BLUE<
BEO	19604	PINFANG <CAO<
BEO	19605	CHAELYNN M <HIGA<
BEO	19606	HOLLYANNE <SAMUELSEN<
BEO	19607	HYON S <SHIN<
BEO	19608	CASANDRA O <LONG<
BEO	19609	ALYSSA P K <BLAKESLEY<
BEO	19610	CROSLYNN S M <BACLAAN-KANUHA<
BEO	19611	FUJIKO K <BYRNE<
BEO	19612	GERALD P <FOURNER<
BEO	19613	ASHLEY M <CARVALHO<
BEO	19614	TAVIA T <NGUYEN<
BEO	19615	JANIS S <GRANT<
BEO	19616	CARLY A <GACCIONE<
BEO	19617	JAMIE L <PAYNE<
BEO	19618	AMI A <TYMES<
BEO	19619	SATOMI <TAKASHIMA<
BEO	19620	GULTEN <FILIPOV<
BEO	19621	HOLLY E <DEMANTLE<
BEO	19622	ELIZABETH J <RATTERMAN<
BEO	19623	CHELSEA L <MATA<

LTYPE	LIC NUM	BP NAME PART 1
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BEO	19624	JAHMILA D <ANDERSON<
BEO	19625	ERICKA M S <TABALBA<
BEO	19626	CHIAKI <KIKUCHI<

LTYPE	LIC NUM	BP NAME PART 1
BSH	4996	THE <BLACK< CAT HAIR STUDIO INC
BSH	4997	WME LLC
BSH	4998	VAN VI THI <DINH<
BSH	4999	PHUONG THI <BUI<
BSH	5000	MY HAIR STUDIO LLC
BSH	5001	COSMIC BEAUTY SUPPLY INC
BSH	5002	WAIMEA SKIN CARE CORP
BSH	5003	SUSAN A <GILLESPIE<
BSH	5004	DUONG & TRAN COMPANY INC
BSH	5005	SACHIKO <OSAMURA<
BSH	5006	ANNA T <LE<
BSH	5007	MIA A <GOO<
BSH	5008	HONU YOU INC
BSH	5009	LENA H <NGUYEN<
BSH	5010	SALON DE MIREI LLC
BSH	5011	KIM HANH THI <TANG<
BSH	5012	JACQUELINE R <FLORES<
BSH	5013	DEBRA A <SPUNG<
BSH	5014	JENNIFER E <JACKSON<
BSH	5015	THREADING LOUNGE INC
BSH	5016	BELLA TORRE ACADEMY INC
BSH	5017	ANDREA E <CUELHO<
BSH	5018	TIHANA H <LINCOLN<
BSH	5019	THE <MYXX< STUDIOS LLC
BSH	5020	SALON AVA LLC
BSH	5021	MYMY <HO<

LTYPE	LIC	NUM	BP	NAME	PART	1
BAR		3424		JOANNE K	<	LUM<
BAR		3425		ELIZABETH G	<	NEW<
BAR		3426		LEI	<	WANG<
BAR		3427		ROSALIE M	<	CABAIS<
BAR		3428		XIU YING	<	XUE<
BAR		3429		HYE-LIN	<	DYE<
BAR		3430		CLARISSA K	<	LEE<
BAR		3431		XUAN-HUONG THI	<	PHAM<
BAR		3432		PIMPAPORN	<	MAKAREWICZ-KANKASET<
BAR		3433		LEAH M	<	BUTED<
BAR		3434		VIVIAN T	<	BONILLA<
BAR		3435		THAM THI	<	NGUYEN<
BAR		3436		THAI HOANG	<	HA<
BAR		3437		JEFFREY C	<	PERREIRA<

LTYPE	LIC NUM	BP NAME PART 1
BAS	1538	ANH QUOC <NGUYEN<
BAS	1539	WING TIM <TANG<
BAS	1540	JENNY'S BARBER & HAIR STYLING LLC

LTYPE	LIC NUM	BP NAME	PART 1
I	12394	NANCY E	<SATTERLEE<