

## **BOARD OF BARBERING AND COSMETOLOGY**

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

### MINUTES OF MEETING

Date: Monday, September 14, 2015

Time: 1:05 p.m.

Place: Queen Liliuokalani Conference Room  
King Kalakaua Building, 1<sup>st</sup> Floor  
335 Merchant Street  
Honolulu, Hawaii 96813

Present: Lance M. Marugame, Barber Member, Chairperson  
Alexander Choi, Public Member  
Lynnette F. McKay, Cosmetology Member  
Chad Nelson, Public Member  
Anne Tokunaga, Cosmetology Member  
Rodney J. Tam, Deputy Attorney General ("DAG")  
Laureen M. Kai, Executive Officer  
Lori Nishimura, Secretary

Excused: Angela Howard, Public Member

Guests: None.

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 1:05 p.m. by Chairperson Marugame.

Additions/  
Revisions to  
Agenda: Executive Officer Kai requested for the Board to amend the agenda, for the following correction as follows:

Correction: 3. APPROVAL OF MINUTES OF THE  
AUGUST [7] **10**, 2015 BOARD MEETING

After discussion, it was moved by Chairperson Marugame, seconded by Mr. Nelson, and unanimously carried to approve the above correction to the meeting agenda.

Minutes of the  
August 10, 2015  
Board Meeting:

After discussion, it was moved by Mr. Nelson, seconded by Ms. Tokunaga, and unanimously carried to approve the minutes of the August 10, 2015 Board meeting, as circulated.

At 1:07 p.m., it was moved by Ms. McKay, 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 1:14 p.m., it was moved by Mr. Nelson, seconded by Ms. McKay, and unanimously carried for the Board to move out of Executive Session.

Applications:

A. Ratification of Issued Licenses

It was moved by Ms. McKay, seconded by Ms. Tokunaga, and unanimously carried to ratify the list of issued licenses attached (see, attached list).

B. Examination and License

- (1) ARCHER, Lean A.  
( Beauty Operator – Nail Technician )

After discussion, it was moved by Mr. Nelson, seconded by Ms. McKay, and unanimously carried to approve the beauty operator application for examination and license of Lean A. Archer.

C. Beauty Shop/Barber Shop License

- (1) ALOHA HAIRLINES LLC ( New Beauty Shop )
- (2) AWAKUNI, Gloria J.  
dba GLORIA @ SALON 808 ( New Beauty Shop )
- (3) GAVIAO, Tangela ( New Beauty Shop )
- (4) MAUI MILLIONHAIR LLC  
dba PINK PINEAPPLE SALON ( New Beauty Shop )
- (5) MAYER, Leilani M.  
dba LEILANI MALIE ESTHETICS

- ( Relocation of Beauty Shop: BSH 5069 )
- (6) OCEAN NAIL SPA LLC  
( New Beauty Shop )
  - (7) PHAM, Lily K.  
dba LILY KIM'S SALON ( New Beauty Shop )
  - (8) SIRI, Chasity M. K. ( New Beauty Shop )
  - (9) SUPERCUTS CORPORATE SHOPS, INC.  
dba SUPERCUTS ( New Beauty Shop )  
address: 4454 Nuhou Street, Lihue, HI 96766
  - (10) THE CUTTING EDGE AND NAIL SALON LLC  
( New Beauty Shop )
  - (11) VENTURA, Juvy C.  
dba SKINCARE MAUI ( New Beauty Shop )

The eleven (11) beauty shop applications above were preliminarily reviewed by staff, the Executive Officer, Ms. McKay, and Ms. Tokunaga (the designated Board members to review the barber shop and beauty shop applications for consideration for this Board meeting). Ms. McKay stated that she and Ms. Tokunaga reviewed the eleven (11) applications, and concluded that they meet all requirements for beauty shop licenses, and recommends approval. After discussion, it was moved by Ms. McKay, seconded by Ms. Tokunaga, and unanimously carried to approve the beauty shop applications listed above.

D. Restoration of License

- (1) COOLIDGE, James K. ( BEO 12527 )

After discussion, it was moved by Ms. McKay, seconded by Mr. Choi, and unanimously carried to approve the restoration of beauty operator license of James K. Coolidge.

The Board's consensus was to defer Agenda item # 5, Chapter 91, HRS, Adjudicatory Matters, until DAG Tam arrived to the meeting.

Examination:

- A. National Interstate Council ("NIC") of State Boards of Cosmetology Licensing Examinations

Mr. Nelson stated that he has no update as he is still waiting for responses for his research into this matter.

Executive Officer Kai took this opportunity to report on her trip to the NIC Conference and Administrators' Meeting that was held August 27 – September 1, 2015 in Missoula, Montana. Ms. Kai stated that she represented the Board in voting of new/amended bylaws and officers:

- Bylaws changes that were approved include: (1) the addition of a second Board Administrator representative to the Board of Directors; (2) the addition of a Second Vice-President; and (3) allowing the President (like all other officers) to serve a third term, succeeding him/herself twice. All changes were passed.
- Officers elected for the upcoming year are: President: Melanie Thompson; Vice-President: Bill Helton; Secretary/Treasurer: Lisa McElreath; and Region 4 Director (Hawaii): Gary Begley.

Ms. Kai also reported that she met with representatives of NIC to discuss how NIC could assist the Board should it consider utilizing the NIC examination and also with representatives from Professional Credential Services, which is the NIC examination administrator for the majority of states that utilize the NIC examination for licensure. Ms. Kai also reported that she met with representatives of education evaluation services that offer services that include the evaluation of high school credentials, including diplomas and transcripts from non-accredited high schools and online or Internet schools.

Executive Officer Kai also reported on the following from the Board Administrators Meeting:

- The board administrators voted Gina Fast (Minnesota Board administrator) as the second administrator to the Board of Directors;
- Administrators also voted to begin work on an initiative to gain more consistency among the states relating to definitions of licensing terminology, licensing categories, and procedures; and

- Administrators shared best practices, especially relating to new licensure types such as hair braiders, non-chemical barbers, body art/beautification, and makeup artists.

Executive Officer Kai thanked the Board for endorsing her attendance and for the generous contributions made to the State gifts: Kona coffee; Hawaiian tea; Hawaii fruit drink mixes; macadamia nuts; chocolate covered macadamia nut candies; Kauai Kookies; Big Island cookies; guava jelly; Hawaii scenic calendar; all in a reusable Hawaiian thermal tote bag. Also, macadamia nuts and chocolates were given to NIC staff and officers in appreciation of their work and favorable consideration of the Hawaii Board.

DAG Tam arrived to the meeting at 1:35 p.m., and the Board immediately recessed the meeting to discuss and deliberate on the following adjudicatory matters pursuant to HRS chapter 91.

Chapter 91,  
HRS, Adjudicatory  
Matters:

A. In the Matter of the Barber License of Solosolo J. Kahili;  
BAR 2015-68-L

DAG Tam provided a summary of the Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Board's Final Order regarding Solosolo J. Kahili, Respondent. He stated that RICO alleges that the Respondent, who holds a barber's license, permitted unlicensed persons, Michael C.H. Windham, Gary I. Lester, and Obed N. Kay, to perform activities which require a license at 808 Simply Faded, LLC, an unlicensed establishment. RICO also alleges that the Respondent violated HRS sections 438-14(a)(3) and 438-14(a)(4).

DAG Tam summarized the terms of the Settlement Agreement:

- Administrative fines in the amount of two thousand (\$2,000.00) dollars to Solosolo J. Kahili; and
- Failure to fully and timely comply with terms of the Settlement Agreement shall result in the automatic revocation of Respondents' licenses.

After discussion, it was moved by Mr. Nelson, seconded by Ms. McKay, and unanimously carried to approve the Settlement Agreement relating to the Matter of the Barber License of Solosolo J. Kahili; BAR 2015-68-L.

B. In the Matter of the Beauty Shop License of Le Van Ton dba Kauai Nail Spa; BAR 2015-2-L

DAG Tam provided a summary of the Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Board's Final Order regarding Le Van Ton dba Kauai Nail Spa, Respondent. He stated that RICO alleges that the Respondent, who holds a beauty shop license, permitted unlicensed persons, Khoa D. Thai, Angel T. Ho, Mai T. Nguyen, Tam M. Ha, Phuong B. Thai, and Thuy T. Le, to perform activities in Kauai Nail Spa which require a license. RICO also alleges that the Respondent violated HRS sections 439-17(d) and 439-19(a)(3).

DAG Tam summarized the terms of the Settlement Agreement:

- Administrative fines in the amount of two thousand (\$2,000.00) dollars to Le Van Ton dba Kauai Nail Spa; and
- Failure to fully and timely comply with terms of the Settlement Agreement shall result in the automatic revocation of Respondents' licenses.

After discussion, it was moved by Mr. Nelson, seconded by Mr. Choi, and unanimously carried to approve the Settlement Agreement relating to the Matter of the Beauty Shop License of Le Van Ton dba Kauai Nail Spa; BAR 2015-2-L.

At 1:38 p.m., the Board reconvened its scheduled meeting.

Executive Officer's Report: A. Booth/Chair Renter/Independent Contractor in Licensed Shop

Discussion ensued on the Board's longstanding position that a booth/chair renter or independent contractor in a licensed beauty/barber shop is required to hold a shop license in addition to the individual beauty operator or barber license.

The Board took into consideration the concerns expressed by the Regulated Industries Complaints Office ("RICO"), at the Board's previous meeting; RICO is concerned with enforcing the Board's laws and rules that a license would be required for a booth/chair renter or independent contractor. The Executive Officer stated that the Board's position is supported by:

- HRS section 439-17(d), (e), and (f); and
- HAR section 16-78-43(b).

After discussion, it was moved by Mr. Choi, seconded by Chairperson Marugame, and unanimously carried to reaffirm the Board's longstanding position that a booth/chair renter or independent contractor in a licensed beauty/barber shop is required to hold a shop license in addition to the individual beauty operator or barber license. Executive Officer Kai reminded both Investigative Committees to be mindful of this and include clearer language in their respective administrative rule revisions.

#### B. Designated Operator-in-Charge of Shop

Executive Officer Kai stated that RICO has questioned the Board's position that a shop is required to have an operator-in-charge for each service that is provided in the shop. Mr. Choi and Mr. Nelson both agreed that they do not believe an operator-in-charge is necessary. Executive Officer Kai commented that the Board may have implemented the requirement of naming an operator-in-charge at a licensed beauty shop or barber shop as a way to ensure that each shop has a beauty operator who is currently licensed in a specific licensure category to provide a specific service to the public. It was noted that the shop owner is responsible for all activities conducted in the shop and that an operator-in-charge does not.

The Executive Officer noted that the operator-in-charge requirement appears to be supported by:

- Barber shops
  - HRS section 438-7(d)(2);
  - HAR section 16-73-3(b); and
  - HAR section 16-73-10.

- Beauty shops
  - HRS section 439-17(a);
  - HAR section 16-78-3(c); and
  - HAR section 16-78-11(a)(2).

DAG Tam commented that there are inconsistencies in the statutes.

Ms. Kai reminded both Investigative Committees to be mindful of these inconsistencies and to include language in their respective administrative rule revisions that may add clarity to the issue.

DAG Tam left the meeting at 2:05 p.m.

C. Industry Bulletin from the California Board of Barbering and Cosmetology Relating to Skin Care Machines/Devices

*Industry Bulletin – 8/14/15 – Skin Care Machines/Devices* that was issued by the California Board of Barbering and Cosmetology was distributed earlier to Board members for review. The handout states that the California Board does not approve or regulate equipment or products used in the barbering and beauty industry, and consequently provides no opinion on the contemplated use of any machine that a licensee considers for purchase. The bulletin addresses the prohibition of invasive procedures and cautions all licensees not to engage in any invasive procedures.

The bulletin also discusses the use of electrical stimulation that falls within the scope of practice only under certain conditions. The bulletin clarifies that machines or devices that provide electrical stimulation when used in a proper current range may not constitute an invasive procedure. The notice also lists services that may be considered invasive or the practice of medicine, including radio frequency, electrical muscle stimulators, intense pulsed light therapies, x-rays, ultrasound (for facial lifting), injections, derma planning, and the removal of moles, age spots, skin tags and/or freckles.

Discussion ensued on possibly having a similar notice to be issued by this Board. After discussion, Mr. Choi and Chairperson Marugame volunteered to draft a similar notice for the Board to consider at a future meeting.



Hawaii  
Administrative  
Rules ("HAR"):

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

No report. Executive Officer Kai inquired as to the status of the rule revisions. The committee reported that its work is ongoing.

B. HAR Chapter 16-78 (Cosmetology)

(1) Report from the Investigative Committee on Amendments to Entire Chapter

No report. Executive Officer Kai inquired as to the status of the rule revisions. The committee reported that its work is ongoing.

(2) Report from the Executive Officer on Amendments to Rules Relating to the State Authorization of Licensed Beauty Schools by the U.S. Department of Education

Executive Officer Kai reported that the approved amendments to rules relating to the State authorization of licensed beauty schools by the U.S. Department of Education are continuing to move through the approval process and are currently awaiting the Governor's final approval and signature. Then, it will be forwarded to the Office of the Lt. Governor for filing, which will then set the effective date as ten days after the filing date. Ms. Kai also noted that the rule amendments are scheduled to be considered by the Small Business Regulatory Review Board (that provides recommendations to State and County agencies on proposed rule amendments) at its meeting on September 16, 2015.

Open Forum:

None.

Next Board  
Meeting:

Monday, October 12, 2015  
1:00 p.m.  
Queen Liliuokalani Conference Room  
King Kalakaua Building,  
335 Merchant Street, 1<sup>st</sup> Floor  
Honolulu, Hawaii 96813

Board of Barbering and Cosmetology  
Minutes of the September 14, 2015 Meeting  
Page 10

Announcements: None.

Adjournment: There being no further business to discuss at this time, the meeting was adjourned at 2:20 p.m.

Taken and recorded by:

/s/ Lori Nishimura

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Lori Nishimura, Secretary

Reviewed and approved by:

/s/ Laureen M. Kai

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Laureen M. Kai, Executive Officer

LMK:ln

10/12/15

[ X] Minutes approved as is.

[ ] Minutes approved with changes. See Minutes of \_\_\_\_\_.

LTYPE	LIC NUM	BP NAME PART 1
-----		
BEO	20570	JUNKO <MAEDA<
BEO	20571	ELIZABETH K <LOPEZ<
BEO	20572	JUN <NAKAMA<
BEO	20573	BIQIN <YU<
BEO	20574	TAYLOR L <LOPEZ<
BEO	20575	GRETCHEN E <TRAPP<
BEO	20576	SIERRA A <RIDGE<
BEO	20577	YEN THI <CAO<
BEO	20578	FELICIA I <MARTINEZ<
BEO	20579	CLAUDIA <GONZALEZ<
BEO	20580	VICTORIA R <WENNING<
BEO	20581	JESSICA L <HUGHES<
BEO	20582	RUNGRAENG <DUANGDAENG<
BEO	20583	MONICA M <SANDERS<
BEO	20584	TAMMY T <LE<
BEO	20585	LYNN C <ELLNER<
BEO	20586	ALYSSA T <BROWN<
BEO	20587	DUNG <NGUYEN<
BEO	20588	KARI M <SAKUDA<
BEO	20589	BRITTANY E <NORTON<
BEO	20590	SHELLY E S <GILTNER<
BEO	20591	BREEANN K <YOUNG<
BEO	20592	KATELIND M <AYER<
BEO	20593	REID M <MORINAGA<
BEO	20594	NGOC DIEU THI <NGUYEN<
BEO	20595	NICOLE R <MCGUIRE<
BEO	20596	HEIDI T L <ACIO<

LTYPE	LIC NUM	BP NAME PART 1
BAR	3601	CHAVEZ J <KAUWALU<
BAR	3602	THUY T NGOC <PHAN<
BAR	3603	HEATHER L <WEILBACHER<
BAR	3604	MARY JAYNE <MOURUFAS<
BAR	3605	STEVEN VAN <NGUYEN<
BAR	3606	EVAN A R <BAYUDAN<