

BOARD OF BARBERING AND COSMETOLOGY

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

MINUTES OF MEETING

Date: Monday, November 2, 2015

Time: 1:05 p.m.

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

Present: Lance M. Marugame, Barber Member, Chairperson
Angela Howard, Public Member
Lynnette F. McKay, Cosmetology Member
Chad Nelson, Public Member
Anne Tokunaga, Cosmetology Member
Daniel Jacob, Deputy Attorney General ("DAG")
Laureen M. Kai, Executive Officer
Lori Nishimura, Secretary

Excused: Alexander Choi, Public Member
Rodney J. Tam, DAG

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 as follows:

Addition: 4. APPLICATIONS

C. Beauty Shop/Barber Shop License

(37) DULDULAO, Janet L.
(New Beauty Shop.)

After discussion, it was moved by Ms. Howard, seconded by Ms. McKay, and unanimously carried to approve the above addition to the meeting agenda.

Minutes of the
September 14,
2015 Board
Meeting:

After discussion, it was moved by Mr. Nelson, seconded by Ms. Tokunaga, and unanimously carried to approve the minutes of the September 14, 2015 Board meeting, as circulated.

At 1:07 p.m., it was moved by Ms. Tokunaga, seconded by Ms. McKay, 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 1:20 p.m., it was moved by Chairperson Marugame, 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. Howard, seconded by Ms. Tokunaga, and unanimously carried to ratify the list of issued licenses attached (see, attached list).

B. Examination and License

(1) BALCOBERO, Gerry T. (Barber)

After discussion, it was moved by Ms. Howard, seconded by Ms. Tokunaga, and unanimously carried to approve the barber application for examination and license of Gerry T. Balcobero.

(2) MONIZ, Emrie L. L.
(Beauty Apprentice – Nail Technician)

After discussion, it was moved by Ms. Howard, seconded by Ms. Tokunaga, and unanimously carried to approve the beauty apprentice application for examination and license of Emrie L. L. Moniz.

C. Beauty Shop/Barber Shop License

- (1) APPLE, Julia A.
dba 808 FADES (New Barber Shop)
- (2) BARBA, Kauilani A. (New Beauty Shop)
- (3) BLADEZ 96746 LLC
dba BLADEZ HAIR DESIGNS (New Beauty Shop)
- (4) BLOOM HAIR PARLOR AND BOUTIQUE, LLC
(New Beauty Shop)
- (5) DOI, Julie Ann T. (New Beauty Shop)
- (6) ENDLESS GLAMOUR LLC
(New Beauty Shop)
- (7) HASSELLE, Bonita B. (New Beauty Shop)
- (8) KIKI INTERNATIONAL, INC.
dba TIARA FACIAL SKINCARE, TIARA FACIAL SPA
(New Beauty Shop)
- (9) LEE, Brandy W. H. (New Beauty Shop)
- (10) LOWRY, Shelly A.
(Relocation of Beauty Shop: BSH 2807)
- (11) MAKANA ESTHETICS WELLNESS ACADEMY LLC
(Relocation of Beauty Shop: BSH 4527)
- (12) METZ, Darnelle Lei (New Beauty Shop)
- (13) NGUYEN, My Hong Ngoc
dba ROSEY'S BARBERSHOP (New Barber Shop)
- (14) NGUYEN, Peter P.
dba LIHUE NAILS SPA (New Beauty Shop)
- (15) OHANA CLIPS LIMITED LIABILITY COMPANY
(New Beauty Shop)
- (16) THE HAIR GURU, LLC (New Beauty Shop)
- (17) THE LASH BOUTIQUE LLC
(Relocation of Beauty Shop: BSH 5243)
- (18) TRAN, Loc Chi
dba MIMI NAILS SALON (New Beauty Shop)
- (19) YUNNY ONE, LLC
dba MAIN STREET SALON (New Beauty Shop)
- (20) AVIANCE SALON LLC (New Beauty Shop)

- (21) BRADY, Jillian M.
(Relocation of Beauty Shop: BSH 5259)
- (22) BRYSON, Misty M.
dba PENA PARLOUR (New Beauty Shop)
- (23) CARNEY, Ryan J.
dba O'CARNEY'S BARBER SHOPPE (New Barber Shop)
- (24) DEBINA, Corinna P.
dba SKIN CARE HEAVEN
(Relocation of Beauty Shop: BSH 4517)
- (25) ETRATA, Elena C.
dba ETRATA SKIN CARE & SPA (New Beauty Shop)
- (26) J ISLAND INC.
dba FINCA BEAUTY SALON (New Beauty Shop)
- (27) LA'AKEA SPA HAWAII LLC (New Beauty Shop)
- (28) LEGACY ARTISTRY, LLC (New Beauty Shop)
- (29) MAHINA BOERSMA LLC
dba THE FOUNDRY (New Beauty Shop)
- (30) MEN'S HALL LLC (New Beauty Shop)
- (31) NAILS BEYOND & SPA LLC (New Beauty Shop)
- (32) ORANGE ELEPHANT LLC
dba MIHANA BEAUTY & SPA
(Relocation of Beauty Shop: BSH 4777)
- (33) SAWYER, Nita Pearl
dba IMAGE OF ALOHA
(Relocation of Beauty Shop: BSH 3018)
- (34) SMILES NAILS, INC.
dba SMILES NAILS SALON AND MASSAGE
(New Beauty Shop)
- (35) WAIKELE PROFESSIONAL LLC (New Beauty Shop)
- (36) WAMIL, Roanne M. (New Beauty Shop)
- (37) DULDULAO, Janet L. (New Beauty Shop)

The barber shop and beauty shop applications, numbered #1 to #19, 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 nineteen (19) applications, and concluded that they meet all requirements for barber shop and beauty shop licenses, and recommends approval.

The barber shop and beauty shop applications, numbered #20 to #37, above were preliminarily reviewed by staff, the Executive Officer, and Chairperson Marugame (the designated Board member to review the barber shop and beauty shop applications for consideration for this Board meeting). Chairperson Marugame stated that he reviewed the eighteen (18) applications, and concluded that they meet all requirements for barber shop and beauty shop licenses, and recommends approval.

After discussion, it was moved by Mr. Nelson, seconded by Ms. Tokunaga, and unanimously carried to approve the barber shop and beauty shop applications, numbered #1 to #37, listed above.

D. Restoration of License

(1) GROANING, Carolyn (BEO 7573)

After discussion, it was moved by Ms. Howard, seconded by Mr. Nelson, and unanimously carried to approve the restoration of beauty operator license of Carolyn Groaning.

At 1:22 p.m., the Board 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's License of Mercedita R. Scott;
BAR 2015-46-L

DAG Jacob provided a summary of the First Amended Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Board's Final Order regarding Mercedita R. Scott, Respondent. He stated that RICO alleges that the Respondent, who holds a barber's license, was working with unlicensed persons at South Side Barbershop, an unlicensed barber shop. RICO also alleges that the Respondent violated HRS sections 436B-19(6), 438-2(c), and 438-14(a)(4).

DAG Jacob summarized the terms of the First Amended Settlement Agreement:

- Administrative fine in the amount of one thousand (\$1,000.00) dollars to Mercedita R. Scott; and
- Failure to fully and timely comply with terms of the First Amended Settlement Agreement shall result in the automatic revocation of Respondent's license.

After discussion, it was moved by Ms. Howard, seconded by Ms. Tokunaga, and unanimously carried to approve the First Amended Settlement Agreement relating to the Matter of the Barber's License of Mercedita R. Scott; BAR 2015-46-L.

- B. In the Matter of the Beauty Operator License of Phuong V. Bruggman, also known as Phuong V. Ishimoto, and the Beauty Shop License of Zenza Massage & Spa LLC, doing business as Zenza Massage & Spa; BAR 2015-63-L

DAG Jacob provided a summary of the Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Board's Final Order regarding Phuong V. Bruggman ("Bruggman"), also known as Phuong V. Ishimoto, Respondent, and the Beauty Shop License of Zenza Massage & Spa LLC, doing business as Zenza Massage & Spa ("Zenza"), Respondent. He stated that RICO alleges that Respondent Bruggman, who holds a beauty operator license and was the designated beauty operator in charge of Zenza and Respondent Zenza, who holds a beauty shop license, permitted an unlicensed person, Nichole T. Takemoto, to perform activities in Respondent Zenza's establishment which require a license. RICO also alleges that the Respondents violated HRS sections 439-17(d) and 439-19(a)(3).

DAG Jacob summarized the terms of the Settlement Agreement:

- Administrative fine in the amount of five hundred (\$500.00) dollars to both Respondents who agrees to jointly and severally pay the fine; 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 Ms. Howard, seconded by Mr. Nelson, and unanimously carried to approve the Settlement Agreement relating to the Matter of the Beauty Operator License of Phuong V. Bruggman, also known as Phuong V. Ishimoto, and the Beauty Shop License of Zenza Massage & Spa LLC, doing business as Zenza Massage & Spa; BAR 2015-63-L.

C. In the Matter of the Application for a Beauty Shop License of Advanced Medi-Spa, LLC; BAR-LIC-2014-001

DAG Jacob summarized the Hearing Officer's Recommended Order ("HORO") dated September 21, 2015, in the matter of the application for a Beauty Shop license of Advanced Medi-Spa, LLC:

Findings of Fact:

- On July 17, 2014, Cincy M. Chang, on behalf of Petitioner Advanced Medi-Spa, LLC, requested an administrative hearing to contest the denial of its application for a beauty shop license;
- On July 17, 2014, the Petitioner's request for hearing was received by the Office of Administrative Hearing ("OAH"), and the matter was duly set for hearing on December 9, 2014 and pre-hearing conference on November 17, 2014;
- After a number of pre-hearing conferences at the request of the Petitioner's representative, the hearing was rescheduled to August 20, 2015, and a Notice of Rescheduled Hearing was issued to the parties;
- On August 20, 2015, a hearing was conducted by the Hearings Office. The Petitioner did not appear nor was anyone present on its behalf, even though the hearing was delayed to await the arrival of the Petitioner's representative;
- The Respondent, Department of Commerce and Consumer Affairs representative, was present and prepared to proceed and did proceed; Respondent's Exhibits A through DD were received into evidence;
- On August 24, 2015, Petitioner's representative left a message for the Hearings Officer; by letter of the same date, the Hearings Officer informed Petitioner's representative that in order to reopen the hearing, a written request should be submitted to the Hearings Officer within seven (7) days setting forth the reasons for failing to appear at the hearing;

- No such request had been submitted as of the date of the HORO, September 21, 2015.

Conclusions of Law:

- The Petitioner (as the party contesting the Board's determination) has the burden of proving that the Board erred in denying its application;
- Neither Petitioner or anyone on its behalf appeared at the hearing to present evidence to support this appeal;
- Accordingly, the Hearings Officer finds and concludes that Petitioner has not proven by a preponderance of the evidence that the Board erred in denying its application;
- On the other hand, the Respondent presented ample evidence supporting the Board's denial of the Petitioner's application.

Recommended Order:

- The Hearing Officer recommends that the Board reaffirms its denial of Petitioner's applications for a beauty shop license.

Exceptions received from the Petitioner's representative on September 25, 2015:

- Ms. Chang's "Request in writing for hearing" apologized for her absence at the August 20, 2015 hearing due to "unforeseen circumstances";
- Requested another hearing;
- Enclosed a copy of three (3) documents "to add to the Exhibits and for your record":
 1. An unsigned, unfinished and unfiled Judgment;
 2. Intervenor Association of Unit Owners of Aiea Medical Building to File Cross Claim; and
 3. A copy of a September 22, 2015 letter which Petitioner sent to the Board's Executive Officer;
- None of these documents are part of the record below.

Respondent's Statement in Support of the Hearing Officer's Findings of Fact, Conclusions of Law, and Recommended Order:

- The documents which Petitioner mailed to Hearings Officer after the hearing cannot be made part of the record;
- Written exceptions are part of the record; however, the rules does not allow new information to be considered as part of the written exceptions;

- Petitioner's request to reopen the hearing must be denied because it was not submitted within seven (7) days of the hearing date of August 20, 2015, and was submitted after the HORO was issued on September 21, 2015; and
- Respondent requests that the Hearings Officer's HORO be adopted in its entirety.

Board's Final Order:

- Upon review of the entire record of this proceeding, the Board adopts the Hearing Officer's recommended decision as the Board's Final Order;
- The Board finds and concludes that Petitioner has not proven by a preponderance of the evidence that the Board erred in denying its application, and accordingly reaffirms its denial of Petitioner's application for a beauty shop license.

After discussion, it was moved by Ms. Howard, seconded by Ms. McKay, and unanimously carried to accept the Board's Final Order in the Matter of the Application for a Beauty Shop License of Advanced Medi-Spa, LLC; BAR-LIC-2014-001.

At 1:41 p.m., the Board reconvened its scheduled meeting.

Examination:

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

Mr. Nelson reported on his research into NIC testing:

- Rosanne Kinley, Chair of the National Examination Committee of NIC, informed him that testing locations should not be an issue as they have a large variety of testing facilities; and
- Mississippi Board recently adopted NIC testing; thus, the Board may consider reaching out to them to share their experience with the adoption process.

After discussion, Mr. Nelson was requested to follow up with Ms. Kinley on matters relating to training topics and to request for her assistance with setting up dialog with former administrator of the Mississippi Board, Lesia McElreath. The costs of testing administrators, as well as test administration (paper/pencil or computer base), were also discussed.

Proposed Industry
Bulletin From the
Board Relating to
Skin Care
Machines/Devices:

Chairperson Marugame reiterated that he and Mr. Choi had volunteered to draft a notice from the Board relating to skin care machines/devices and stated that their work is ongoing.

Executive Officer's Report: A. Infection Control Education

Executive Officer Kai informed the Board that Leslie Roste, of BlueCo Brands & King Research who works with Boards of Cosmetology in educating regulators and licensees about infection control, has offered to provide some type of infection control education to our licensees for their own safety and that of their customers. After discussion, the Board's consensus was to allow the Executive Officer to continue dialog with Ms. Roste on this matter.

B. Regulated Industries Complaints Office ("RICO") Barbering and Cosmetology Advisory Committee

After discussion, it was moved by Ms. McKay, seconded by Mr. Nelson, and unanimously carried to approve the list of members of the RICO Barbering and Cosmetology Advisory Committee and addendum, which includes any additional interim appointees that RICO deems necessary to aid in its investigations.

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 has been signed and approved by the Governor on September 16, 2015 and forwarded to the Office of the Lt. Governor for filing. The effective date of the rules amendments is September 26, 2015.

Open Forum: None.

Next Board Meeting: Monday, December 21, 2015
1:00 p.m.
Queen Liliuokalani 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 2:10 p.m.

Taken and recorded by:

/s/ Lori Nishimura

Lori Nishimura, Secretary

Reviewed and approved by:

/s/ Charlene Tamanaha

for Lauren M. Kai, Executive Officer

LMK:ln

11/23/15

[] Minutes approved as is.

[X] Minutes approved with changes. See Minutes of December 21, 2015.

LTYPE	LIC NUM	BP NAME PART 1
BEO	20597	PHUC THI <DUONG<
BEO	20598	TOMOKO Y <LAU<
BEO	20599	KOZO <UBUKATA<
BEO	20600	JESSIKA <LEBRON ELUGARDO<
BEO	20601	IORI <IZAWA<
BEO	20602	KOJI <HIGASHINO<
BEO	20603	HANG L <VU<
BEO	20604	JOY M <CALAMAYAN<
BEO	20605	ASHLEY S <ARRE<
BEO	20606	FRANCES A <WAITE<
BEO	20607	HIROKO <HISANISHI<
BEO	20608	JASON <PHAM<
BEO	20609	LACEY A <HATT<
BEO	20610	MAYUMI <ICHIKAWA<
BEO	20611	ANNY <NGUYEN<

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LTYPE	LIC NUM	BP NAME PART 1
BAR	3607	HASSLE M <DORONIO<
BAR	3608	ILEAN F <TAULANI<
BAR	3609	JEFFREY C <BERMOY<
BAR	3611	HEATHER M <YOUNG<
BAR	3612	NEAL D <CABANTING<