

BOARD OF BARBERING AND COSMETOLOGY

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

MINUTES OF MEETING

Date: Monday, December 21, 2015

Time: 1:08 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
Alexander Choi, Public Member
Angela Howard, 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

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 1:08 p.m. by Chairperson Marugame.

Additions/
Revisions to
Agenda: None.

Approval of
Minutes of the
November 2,
Board Meeting: After discussion, it was moved by Mr. Choi, seconded by Ms. McKay, and unanimously carried to approve the minutes of the November 2, 2015 Board meeting, with the following amendments, as requested by Executive Officer Kai (with new material underscored and repealed material bracketed and stricken through):

Pages 10-11: Hawaii Administrative Rules ("HAR"):

B. HAR Chapter 16-78 (Cosmetology) (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:

Add to end of paragraph: "The Executive Officer further reported that subsequent to the effective date, the license wall certificate and pocket license ID card were changed to designate beauty schools as postsecondary institutions. Ms. Kai reported that she notified Dr. Sophia McArdle of the U.S. Department of Education on October 8, 2015 of the rule amendments and changes to license indicia, and that she is awaiting Dr. McArdle's response."

Page 11: Open Forum:

"[None.] Board members inquired about the licensure status of a retired beauty operator ("BEO") or a BEO who wished to temporarily leave the industry. The Executive Officer clarified that the "inactive" license status was available to licensed BEOs for a nominal fee, with another fee required upon reactivation of the license. A retired BEO who intended to permanently leave the industry would typically let his/her license lapse at the end of the license period (December 31 of every odd-numbered year), or would notify the Board in writing of intent.

A further inquiry relating to the Instructor license was discussed, with consensus of the Board reaffirming that an active BEO license in the appropriate licensure category is required for an active Instructor license in the same licensure category."

At 1:10 p.m., it was moved by Chairperson Marugame, 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), 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 1:24 p.m., it was moved by Ms. McKay, seconded by Mr. Nelson, 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. Howard, and unanimously carried to ratify the list of issued licenses attached (see, attached list).

B. Examination and License

- (1) DROUIN, Korin D. (Beauty Operator - Esthetician)

After discussion, it was moved by Ms. McKay, seconded by Ms. Howard, and unanimously carried to approve the beauty operator application for examination and license of Korin D. Drouin.

- (2) NGUYEN, Hong Thi
(Beauty Operator – Cosmetologist)

After discussion, it was moved by Ms. McKay, seconded by Ms. Howard, and unanimously carried to approve the beauty operator application for examination and license of Hong Thi Nguyen.

C. Beauty Shop/Barber Shop License

- (1) ABARCAR, Stella L. (New Beauty Shop)
(Requested January 1, 2016 Effective Date of Licensure)
- (2) FACIAL SPA HAWAII, INC.
(Relocation of Beauty Shop: BSH 3962)
- (3) MILEYS NAILS LLC (New Beauty Shop)
- (4) MOJO MCCULLY LLC (New Barber Shop)
- (5) NAKAMURA, Chanyle A. M. (New Beauty Shop)
- (6) NGUYEN, Van Thi Hong dba APPLE NAILS SPA
(New Beauty Shop:)
- (7) NOVOLODSKAYA, Kristina Y. dba PREMIER SPA SERVICES
(Relocation of Beauty Shop: BSH 4980)
- (8) PREMKAMAL SPAS LLC dba BODY RHYTHMS SPA
(New Beauty Shop)

The barber shop and beauty shop applications above were preliminarily reviewed by staff, the Executive Officer, and

Ms. McKay (the designated Board member to review the barber shop and beauty shop applications for consideration for this Board meeting). Ms. McKay stated that she reviewed the eight (8) applications, and concluded that they meet all requirements for barber shop and beauty shop licenses, and recommends approval.

After discussion, it was moved by Ms. McKay, seconded by Chairperson Marugame, and unanimously carried to approve the barber shop and beauty shop applications listed above.

D. Restoration of License

(1) SACDALAN-MAGHAMIL, Lisa A. (BEO 8194)

After discussion, it was moved by Ms. McKay, seconded by Mr. Nelson, and unanimously carried to approve the restoration of the beauty operator's license of Lisa A. Sacdalan-Maghamil.

(2) SMITH, Gerilynne L. (BAR 2752)

After discussion, it was moved by Ms. McKay, seconded by Mr. Nelson, and unanimously carried to approve the restoration of the barber's license of Gerilynne L. Smith.

Examination:

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

Mr. Nelson reported that as requested by the Board at its previous meeting on November 2, 2015, he was able to reach out to Rosanne Kinley, Chairperson of the National Examination Committee of NIC, to follow up on the following matters relating to training topics, fees, and test administration:

- What training topics are tested on the written examination?

Response by Ms. Kinley: *I'm not sure what they mean by "training topics", so I have attached copies of the cosmetology CIB [Candidate Information Bulletin]...both written and practical. [Mr. Nelson to provide email to the Executive Officer on the CIB who will then forward to all Board members.]*

- Will there be separate exams for each of Hawaii's separate beauty operator license categories, for beauty instructors and for barbers?

Response by Ms. Kinley: *We offer exams in Cosmetology, Hair Design, Hair Cutter, Esthetics, Nail Tech, Instructor, Barber 1, Barber Styling, Advanced Esthetics, and several others including a National Managers exam.*

- Would we be able to add questions on Laws specific to Hawaii on the examination?

Response by Ms. Kinley: *Absolutely!*

- How would the examination fee work? How much?

Response by Ms. Kinley: *NIC charges \$18 for all theory examinations. Any additional charges are incurred with extras that the state contracts for, i.e., CBT [computer-based testing] exams, processing, qualifications, etc.*

- Is the examination paper/pen or computer or both?

Response by Ms. Kinley: *It is offered in both paper/pencil and CBT.*

Mr. Nelson stated that Ms. Kinley provided him with contact information for Ms. Leisa McElreath, former administrator of the Mississippi Board of Cosmetology, for assistance and advice to this Board. The Mississippi Board most recently adopted the NIC Licensing Examination. Mr. Nelson stated that he has contacted Ms. McElreath, and is awaiting her response.

Discussion ensued on a new licensing category in the barber industry called a "non-chemical barber". Executive Officer Kai stated a statute change would be necessary if the Board wished to introduce a new category for the barber license. Chairperson Marugame volunteered to inquire with Margaret Williams, Principal of Hawaii's only licensed barber school, the Hawaii Institute of Hair Design, on whether there appears to be interest or demand for this new category that would warrant the Board to discuss this matter further.

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 then commented that he inquired with two dermatologists who opined that invasive type of treatments may be okay under the supervision of a medical doctor. Mr. Choi also commented that he inquired with a dermatologist and will forward the response he received to the Executive Officer.

Executive Officer's Report: A. Inquiry to Hawaii Medical Board Relating to Scope of Practice

Executive Officer Kai stated that the Hawaii Medical Board met on October 8, and considered the Board's inquiry relating to the following (whether the procedures fall within the practice of medicine as defined by HRS chapter 453):

- High Intensity Focused Ultrasound Technology for Facial Treatment;
- Fractional Radio Frequency Thermagic for Face Lift Treatment;
- Vacuum Cavitation Cryolipolysis Slimming Machine; and
- Ultrasonic or Microcurrent Technologies for Slimming and/or Spot Removal Purposes (no laser).

Executive Officer Kai stated that the Hawaii Medical Board also considered the Industry Bulletin issued by the California Board of Barbering and Cosmetology (which was previously reviewed by this Board and provided to the Hawaii Medical Board for its consideration), which states that:

"If the machine produces any of the following, you are working out of your scope of practice:

- Bleeding
- Bruising
- Edema
- Inflammation
- Oozing
- Excoriation
- Scabbing
- Removal of skin below the epidermis
- Piercing of skin
- Heating or burning of the skin."

The Hawaii Medical Board stated that the California Board's industry bulletin reflects a "safe and prudent position".

Ms. Kai further reported that the Hawaii Medical Board discussed the Board's inquiry further and, after due consideration, it "determined that it will not issue approvals of specific procedures or devices"; however, it is the Hawaii Medical Board's "informal opinion that anyone engaged in the practice of medicine, as defined by HRS §453-1, requires a medical or osteopathic medical license in the State".

The Hawaii Medical Board provided the statutory definition of the practice of medicine (pursuant to HRS section 453-1) to the Board, as follows:

"For the purposes of this chapter the practice of medicine by a physician or an osteopathic physician includes the use of drugs and medicines, water, electricity, hypnotism, osteopathic medicine, or any means of method, or any agent, either tangible or intangible, for the treatment of disease in the human subject; provided that when a duly licensed physician or osteopathic physician pronounces a person affected with any disease hopeless and beyond recovery and gives a written certificate to that effect to the person affected or the person's attendant nothing herein shall forbid any person from giving or furnishing any remedial agent or measure when so requested by or on behalf of the affected person.

This section shall not amend or repeal the law respecting the treatment of those affected with Hansen's disease.

For purposes of this chapter, 'osteopathic medicine' means the utilization of full methods of diagnosis and treatment in physical and mental health and disease, including the prescribing and administration of drugs and biologicals of all kinds, operative surgery, obstetrics, radiological, and other electromagnetic emissions, and placing special emphasis on the interrelation of the neuro-musculoskeletal system to all other body systems, and the amelioration of disturbed structure-function relationship by the clinical application of the osteopathic diagnosis and therapeutic skills for the maintenance of health and treatment of disease."

Lastly, the Hawaii Medical Board stated that in accordance with Hawaii Administrative Rules section 16-201-90, the above interpretation provided to this Board is for informational and explanatory purposes only. It is not an

official opinion or decision, and therefore is not to be viewed as binding on the Hawaii Medical Board or the DCCA.

DAG Tam commented that this Board should follow the Hawaii Medical Board's advice and not issue approvals for specific procedures or devices. He stated that the Board should advise its licensees to follow the Board's laws and rules relating to scope of practice.

After discussion, the consensus of the Board was that it is the Board's informal opinion that anyone engaged in the practice of barbering or cosmetology, as defined by HRS section 438-1 and HRS section 439-1, requires the respective barber or beauty operator's license in the State, thereby being required to comply with their respective scopes of practice, as defined.

The above interpretation provided is for informational and explanatory purposes only. It is not an official opinion or decision, and therefore is not to be viewed as binding on the Board or the DCCA.

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 reiterated that the rule revisions 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. She further reiterated that the changes to the wall certificate and the pocket license ID card to designate beauty schools as postsecondary institutions have been made, and the notification to the USDE, dated October 8, 2015, has been transmitted. A response from Dr. McArdle has not yet been received.

Open Forum: None.

Next Board Meeting: Monday, January 11, 2016
1:00 p.m.
PVL Examination Room
King Kalakaua Building, 3rd Floor
335 Merchant Street, Room 330
Honolulu, Hawaii 96813

Announcements: None.

Adjournment: There being no further business to discuss at this time, the meeting was adjourned at 2:15p.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

01/19/16

[X] Minutes approved as is.

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

LTYPE	LIC NUM	BP NAME PART 1
BEO	20615	LESLEY C <COON<
BEO	20622	EBONY A <LEWIS<
BEO	20625	CHERRISSE N C <TANNO<
BEO	20628	DIEP THI <NGUYEN<
BEO	20630	LISA R <FELCH<
BEO	20631	TANI K <MIYASHITA<
BEO	20634	NANCY J <LACUESTA<
BEO	20637	ALAN H T <DO<
BEO	20638	IN KYONG <FRYER<
BEO	20639	VICTORIA-RAYE K <CLARK<
BEO	20640	JENNIFER A K <OMORI<
BEO	20642	BEN J <HOLTZ<
BEO	20643	DANIELLE P <KING<
BEO	20644	OZGE <HAYNES<
BEO	20646	EUN JU <UNEBASAMI<

DEC 21 2015

LTYPE	LIC NUM	BP NAME PART 1
BAR	3613	JEFFREY T <MAHON<
BAR	3614	RATTIYA <WONG<
BAR	3615	JIN SUN <PAE<

LTYPE	LIC NUM	BP NAME PART 1
I	12419	WILLIAM K <JEREMIAH< III