

**BOARD OF BARBERING AND COSMETOLOGY**

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

MINUTES OF MEETING

Date: Monday, August 10, 2015

Time: 1:01 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  
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: Daria Loy-Goto, Complaints & Enforcement Officer, Regulated  
Industries Complaints Office ("RICO")  
John Hassler, Supervising Attorney, Legal Section, RICO

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 1:01 p.m. by Chairperson Marugame.

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

Additions: 5. SCOPE OF PRACTICE  
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C. High Intensity Focused Ultrasound  
("HIFU") Technology for Facial  
Treatment

- D. Fractional Radio Frequency  
Thermagic for Face Lift Treatment
- E. Vacuum Cavitation Cryolipolysis  
Slimming Machine

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

Minutes of the  
July 13, 2015  
Public Hearing and  
Board Meeting:

After discussion, it was moved by Ms. McKay, seconded by Mr. Choi, and unanimously carried to approve the minutes of the July 13, 2015 Public Hearing and Board meeting, as circulated.

At 1:09 p.m., it was moved by Chairperson Marugame, 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), 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 1:51 p.m., it was moved by Ms. McKay, seconded by Ms. Howard, and unanimously carried for the Board to move out of Executive Session.

Chairperson Marugame acknowledged the arrival of DAG Tam during the Executive Session.

The meeting agenda was taken out of order to accommodate the RICO staff members who were present to discuss the following agenda item:

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

Daria Loy-Goto and John Hassler were both welcomed to the meeting by the Board.

Chairperson Marugame asked about RICO's concern in enforcing the Board's laws and rules that a beauty shop license was required for a booth/chair renter/independent contractor. Ms. Loy-Goto stated that she believed that if a case relating to a violation of this requirement was taken to trial (Circuit Court), the laws and rules of the Board as currently written would not allow for RICO to prevail. As such, she suggested that the Board amend its laws to more clearly require a shop license for booth/chair renters.

Ms. Loy-Goto then commented that RICO handles forty-eight (48) different industries and needs to be in touch with each industry. Chairperson Marugame inquired as to how other regulatory boards and programs handle the licensing requirements of independent contractors.

Mr. Hassler commented that it is difficult for an investigator to determine who in the shop is an independent contractor/booth/chair renter. DAG Tam commented the Board considers a shop to be the place of business. Executive Officer Kai commented that the definition of a beauty shop in the Board's laws and rules is a place of business.

DAG Tam commented that past business practices are changing; previously, everyone in the shop was an employee of the shop, which is not the case now. Ms. Howard commented that there are very few shops that have employees anymore; therefore, the Board needs to be sure that such independent contractors are held accountable for their services to the public. This position of the Board is consistent with its mission of ensuring public protection. Other Board members discussed different types of independent contractor situations they are encountering in the industry, and believe that to protect the public, each booth/chair renter who is truly an independent contractor of the building/shop's owner should be required to obtain their own shop license. This is especially true in the situation where the owner has no control over the hours or days of operation the renter is open, the products the renter offers, and prices the renter charges.

Mr. Hassler commented that RICO investigations are the simplistic type versus what the Board may be aware of in the

industry. Their investigators have practical concerns – whether the individual operator is licensed and whether that individual is working in a licensed beauty shop. It is difficult to determine whether the individual with a beauty operator’s license is an employee or an independent contractor.

Ms. Loy-Goto and Mr. Hassler were thanked by the Board for their attendance at the meeting. The Board will take the matter under advisement.

Mr. Nelson left the meeting at 2:45 p.m., and the Board immediately recessed the meeting.

At 2:50 p.m., the Board reconvened its meeting and immediately went into Executive Session. It was moved by Mr. Choi, seconded by Ms. Tokunaga, and unanimously carried for the Board to enter into Executive Session 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 3:13 p.m., it was moved by Ms. Howard, 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. McKay, and unanimously carried to ratify the list of issued licenses attached (see, attached list).

##### B. Examination and License

- (1) EYRE, Lia E.  
( 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 Lia E. Eyre.

- (2) NIKIFOROV, Pavel P. ( 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 Pavel P. Nikiforov.

C. Beauty Shop/Barber Shop License

- (1) AYALA INCORPORATED dba PERMANENT MAKEUP & SKIN CARE CENTER ( New Beauty Shop )  
address: 335 Hoohana St. #705, Kahului, HI 96732
- (2) CASTILLO-SOUZA, Gina V.  
( Relocation of Beauty Shop: BSH 5208 )
- (3) HAWAII KAI NAILS & SPA LLC ( New Beauty Shop )
- (4) JENKINS, Yoshimi ( New Barber Shop )
- (5) KIMURA-AYOSO, Carrie M.N.S.  
dba STUDIO B SALON  
( Relocation of Beauty Shop: BSH 4966 )
- (6) LEHIWA DESIGNS LLC  
( New Beauty Shop )
- (7) LOFT 145 LLC  
( New Beauty Shop )
- (8) MAPS HOTELS AND RESORTS HAWAII 1 LLC  
dba THE ORCHID AT MAUNA LANI ( New Beauty Shop )
- (9) SHANTI ENTERPRISES INC dba HANAIEI DAY SPA  
( New Beauty Shop )
- (10) SUPERCUTS CORPORATE SHOPS, INC.  
dba SUPERCUTS ( New Barber Shop )  
address: 1210 Dillingham Blvd #30, Honolulu, HI 96817
- (11) TLC FARMACY LLC ( New Beauty Shop )
- (12) W SALON HAWAII LLC ( New Beauty Shop )

The twelve (12) barber/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 twelve (12) applications, and concluded that they meet all requirements for barber/beauty shop licenses, and recommends approval. After discussion, it was moved by Ms. Tokunaga, seconded by Ms. McKay, and unanimously carried to approve the barber shop and beauty shop applications listed above.

D. Restoration of License

- (1) LAKE-HASHI, Patricia E. ( BEO 12329 )

After discussion, it was moved by Ms. Howard, seconded by Ms. McKay, and unanimously carried to approve the restoration of beauty operator license of Patricia E. Lake-Hashi.

- (2) ROTH, Gary S. ( BSH 1894 )

After discussion, it was moved by Ms. Howard, seconded by Chairperson Marugame, and unanimously carried to defer decision making on the restoration application of the beauty shop license of Gary S. Roth, pending receipt of the following: (1) written explanation of the activities in which the shop engaged during the period of time the license had lapsed from December 31, 1993 to the current time, as it is difficult to ascertain this information from the documents provided with the restoration application; (2) a copy of the lease or other agreement between the beauty shop and the owner or landlord or agent of the premises of the shop in order to verify that the owner or landlord is aware and approves of the type of beauty culture services that will be provided at Mr. Roth's shop.

- (3) SOUZA, Leasa S. ( BEO 13980 )

After discussion, it was moved by Ms. Howard, seconded by Ms. McKay, and unanimously carried to approve the restoration of beauty operator license of Leasa S. Souza.

(4) SUFFICOOL, Geoffery S. ( BEO 12685 )

After discussion, it was moved by Ms. Howard, seconded by Ms. McKay, and unanimously carried to approve the restoration of beauty operator license of Geoffery S. Sufficool.

Scope of Practice: A. Facial Machines Which Use Ultrasonic or Microcurrent Technologies

Executive Officer Kai stated that the Board received an inquiry if the treatments provided by facial machines which use ultrasonic or microcurrent technologies were within the scope of practice of the licensees regulated by the Board. Ms. Kai stated that the inquirer was asked to provide as much information as possible for the Board's consideration and to date, has not provided any information.

After discussion, it was moved by Ms. McKay, seconded by Mr. Choi, and unanimously carried to defer decision making on the use of facial machines which use ultrasonic or microcurrent technologies to provide beauty culture treatments.

B. The Salon Armor Original Wristband

Executive Officer Kai stated that the Board received an inquiry whether the Board would allow the use of the *Salon Armor Original Wristband* by its licensees. This is an accessory that was created by a hairdresser which is comprised of a magnetic wristband that holds shears, clips, combs, nail and makeup brushes. After discussion, the Board, by consensus, determined that they had no jurisdiction over the issue (i.e., in general, the Board does not have jurisdiction over the types of equipment or products a licensee uses in the practice).

C. High Intensity Focused Ultrasound ("HIFU") Technology for Facial Treatment

Executive Officer Kai stated that the Board received an inquiry if High Intensity Focused Ultrasound ("HIFU") Technology for facial treatment was in the scope of practice of the licensees regulated by the Board. After discussion,

the Board, by consensus, determined that because they are unfamiliar with this device, they will forward this inquiry to the Hawaii Medical Board ("HMB") to obtain that board's input. Once the Board receives a response from the HMB, the Board will review this inquiry at a subsequent meeting.

D. Fractional Radio Frequency Thermagic for Face Lift Treatment

Executive Officer Kai stated that the Board received an inquiry if Fractional Radio Frequency Thermagic for Face Lift Treatment was in the scope of practice of the licensees regulated by the Board. After discussion, the Board, by consensus, determined that because they are unfamiliar with this device, they will forward this inquiry to the HMB to obtain that board's input. Once the Board receives a response from the HMB, the Board will review this inquiry at a subsequent meeting.

E. Vacuum Cavitation Cryolipolysis Slimming Machine

Executive Officer Kai stated that the Board received an inquiry if Vacuum Cavitation Cryolipolysis Slimming machine was in the scope of practice of the licensees regulated by the Board. After discussion, the Board, by consensus, determined that because they are unfamiliar with this device, they will forward this inquiry to the HMB to obtain that board's input. Once the Board receives a response from the HMB, the Board will review this inquiry at a subsequent meeting.

Examination:

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

Due to Mr. Nelson's early departure from the meeting, this agenda item was deferred to the Board's next meeting.

Executive Officer's Report:

A. Booth/Chair Renter/Independent Contractor in Licensed Shop

This agenda item was discussed earlier in the meeting.



B. Designated Operator-in-Charge of Shop

By consensus, the Board decided that this agenda item would be tabled until the Board's next 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 prior to the last meeting, the public hearing on amendments to rules relating to the State authorization of licensed beauty schools by the U.S. Department of Education was held and the Board approved the amendments with no changes. Those approved amendments are continuing to move through the approval process with the appropriate signatures obtained and will be sent to the Governor for final approval and signature, and to the Office of the Lt. Governor for filing.

Open Forum: None.

Next Board Meeting: Monday, September 14, 2015  
1:00 p.m.  
Queen Liliuokalani Conference Room  
King Kalakaua Building,  
335 Merchant Street, 1<sup>st</sup> Floor  
Honolulu, Hawaii 96813

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Announcements: None.

Adjournment: There being no further business to discuss at this time, the meeting was adjourned at 3:35 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

09/02/15

- [ X] Minutes approved as is.  
[ ] Minutes approved with changes. See Minutes of \_\_\_\_\_.

LTYPE	LIC NUM	BP NAME PART 1
BEO	20548	YUMI <ASHIKAWA<
BEO	20549	JILL R <BESARIO<
BEO	20550	RAKSMEY <NAKANO<
BEO	20551	CHICANA P <DAVIS<
BEO	20552	TATIANA M <TORNER<
BEO	20553	JEROD S <ZIMMER<
BEO	20554	JENNIFER <PHOMPHAKDY<
BEO	20555	GLEN M <ISHII< JR
BEO	20556	ANABELLE L <MARVIN<
BEO	20557	SHANTEL M <CARRILLO<
BEO	20558	GABRIELLE A <VOSSLER<
BEO	20559	DAUNTE L <WALKER-DEDRICK<
BEO	20560	MALIA R L <MADEIRA<
BEO	20561	THUY XUAN <NGUYEN<
BEO	20562	CYNTHIA A <JOHNSON<
BEO	20563	MY TRINH THI <PHAM<
BEO	20564	SU JI <KIM<
BEO	20565	NGOC HUE CUU THI <NGUYEN<
BEO	20566	THU THAO THI <DAM<
BEO	20567	KHOA <THAI<
BEO	20568	NGOC MAI <BILOTTA<
BEO	20569	TAM THI THANH <SWAREY<

LTYPE	LIC NUM	BP NAME PART 1
BAR	3597	ITO P <FUALAAU<
BAR	3598	CAS N <PANG<
BAR	3599	TRINA T <HALLABAY<
BAR	3600	NGOC P <HUYNH<