

BOARD OF BARBERING AND COSMETOLOGY

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

MINUTES OF MEETING

Date: Monday, June 20, 2016

Time: 1:07 p.m.

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

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

Excused: Chad Nelson, Public Member

Guest: Sheryl Lee, Wage Standards Division, Department of Labor and
Industrial Relations ("DLIR")
Wesley Lum, Wage Standards Division, DLIR
Pamela Martin, Administrator, Wage Standards Division, DLIR
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 1:07 p.m. by Chairperson Marugame.

Additions/
Revisions to
Agenda: None.

Minutes of the
May 9, 2016
Board Meeting: After discussion, it was moved by Ms. McKay, seconded by
Mr. Choi, and unanimously carried to approve the minutes
of the May 9, 2016 Board meeting, as circulated.

At 1:08 p.m., it was moved by Mr. Choi, seconded by Ms. Tokunaga, 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 1:53 p.m., it was moved by Mr. Choi, seconded by Ms. Tokunaga, and unanimously carried for the Board to move out of Executive Session and to take the following agenda item out of order, to immediately recess 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 Beauty Operator License of
Valerie M. Cap; BAR 2016-25-L

DAG Tam provided a summary of the Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Board's Final Order regarding Valerie M. Cap, Respondent. He stated that the Regulated Industries Complaints Office ("RICO") alleges that the Respondent, who holds a beauty operator's license, answered "no" on her renewal application dated December 24, 2015, in response to question number 3, which asks "In the past 2 years have you been convicted of a crime in which the conviction has not been annulled or expunged?". On or about February 11, 2014, a Judgment of Conviction was entered against Respondent finding her guilty of one count of operating a vehicle under the influence of an intoxicant. RICO also alleges that the Respondent violated HRS section 439-19(a)(9).

DAG Tam summarized the terms of the Settlement Agreement:

- Administrative fine in the amount of five hundred (\$500.00) dollars; and
- Failure to fully and timely comply with terms of the Settlement Agreement shall result in the automatic revocation of Respondent's license.

After discussion, it was moved by Mr. Choi, seconded by Ms. McKay, and unanimously carried to approve the Settlement Agreement relating to the Matter of the Beauty Operator License of Valerie M. Cap; BAR 2016-25-L.

At 1:55 p.m., the Board reconvened its scheduled meeting.

Chairperson Marugame acknowledged the arrival of Ms. Howard during the Executive Session.

Applications:

A. Ratification of Issued Licenses

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

B. Examination and License

- (1) EWTON, Terri L. (Beauty Operator – Cosmetologist)

After discussion, it was moved by Ms. McKay, seconded by Ms. Tokunaga, and unanimously carried to approve the beauty operator application for examination and license of Terri L. Ewton.

C. Beauty Shop/Barber Shop License

- (1) 3 J'S BEAUTY COMPANY INC dba
HALE ALOHA NANI NAIL SALON (New Beauty Shop)
- (2) BANGERT, Bonnie E.
(Relocation of Beauty Shop: BSH 2596)
- (3) BAUTISTA, Joshua D. dba PG CREATION
(New Beauty Shop)
- (4) BEAUTIFUL NAILS LLC
(Relocation of Beauty Shop: BSH 4166)
- (5) BEYOND BARE WAXING HAWAII INC. dba BB SALON & SPA
(Relocation of Beauty Shop: BSH 5284)
- (6) CROSS, Honami I. dba DAY SPA HONAMI
(Relocation of Beauty Shop: BSH 3792)
- (7) DO, Alan H. T. dba INSTYLE NAILS
(New Beauty Shop)

- (8) GUSTAVSON, Sheila L. dba
SHEGUSTAVSON HAIRSTYLING (New Beauty Shop)
- (9) HARAJUKU LIMITED LIABILITY COMPANY dba
HARAJUKU BEAUTY LOUNGE
(Relocation of Beauty Shop: BSH 5188)
- (10) JBISARRA LLC dba COULOURS SALON
(New Beauty Shop)
- (11) KAIPAKA, Mary J.
(Relocation of Beauty Shop: BSH 3869)
- (12) KO'OLINA FS HOTEL LLC dba NAUPAKA SPA & SALON
(New Beauty Shop)
- (13) NAJ LLC (New Beauty Shop)
- (14) NALU SALON INTERNATIONAL INC dba NALU SALON
(New Beauty Shop)
- (15) SUPERCUTS CORPORATE SHOPS, INC. dba
SUPERCUTS (New Beauty Shop – business address:
94-673 Kupuohi Street, Space No. A-101,
Waipahu, HI 96797)

The barber shop and beauty shop applications above were preliminarily reviewed by licensing branch staff 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 fifteen (15) applications, and concluded that they met all requirements for barber shop and beauty shop licenses, and recommends approval.

After discussion, it was moved by Ms. McKay, seconded by Ms. Tokunaga, and unanimously carried to approve the fifteen (15) barber shop and beauty shop applications listed above.

D. Restoration of License

- (1) HUCKELBERRY, Sherrie L. (BEO 16009)

After discussion, it was moved by Ms. McKay, seconded by Ms. Howard, and unanimously carried to approve the restoration of beauty operator license of Sherrie L. Huckelberry.

(2) KIM, Chang Y. (BAR 2813)

After discussion, it was moved by Ms. McKay, seconded by Ms. Howard, and unanimously carried to approve the restoration of barber license of Chang Y. Kim.

(3) LANGLEY-STUMPPFF, Russell G. (BEO 14146)

After discussion, it was moved by Ms. McKay, seconded by Ms. Howard, and unanimously carried to approve the restoration of beauty operator license of Russell G. Langley-Stumpff.

(4) NGUYEN, Andy H. (BEO 12844)

After discussion, it was moved by Ms. McKay, seconded by Ms. Howard, and unanimously carried to approve the restoration of beauty operator license of Andy H. Nguyen.

(5) TEGT, Dondi D. nka CZECH, Dondi D. (BEO 18131)

After discussion, it was moved by Ms. McKay, seconded by Ms. Howard, and unanimously carried to approve the restoration of beauty operator license of Dondi D. Tegt nka Dondi D. Czech.

(6) YI, Young R. (BEO 11352)

After discussion, it was moved by Ms. McKay, seconded by Ms. Howard, and unanimously carried to approve the restoration of beauty operator license of Young R. Yi.

Chapter 91,
HRS, Adjudicatory
Matters:

This agenda item has been discussed, out of order.

Department of
Labor and
Industrial Relations -
Wage Standards
Division:

A. Proposed Notice to Hawaii Barber Shops and Beauty Shops
Regarding the Use of Unpaid Interns and/or Apprentices

Pamela Martin, Administrator of the Wage Standards Division ("WSD"), Department of Labor and Industrial Relations ("DLIR"), along with Sheryl Lee and Wesley Lum were welcomed by the Board. Ms. Martin had requested to address the Board to seek "the guidance and support...for a DLIR-DCCA partnership to educate apprentices and beauty operators about wage issues in the industry." She informed the Board of a complaint their office received from an apprentice in a beauty shop who claims to have not been paid for the hours worked. Ms. Martin was pleased that the investigation and subsequent action of the WSD had resulted in \$7,000.00 in back wages paid to the apprentice by the beauty shop.

Ms. Martin requested the Board to review and approve the proposed notice to be on the Board's letterhead that will be sent to all barber shops and beauty shops to notify them that apprentices working in their barber shops or beauty shops must be paid at least minimum wage. The proposed notice also recommends that barber shops and beauty shops that have included unpaid interns and/or apprentices in the past conduct a self-audit, going back the last six years to calculate any unpaid wages due to former or current interns and/or apprentices, in order to avoid the imposition of any interest charges and/or penalties. The proposed notice would include the DLIR website address and telephone number for barber shops and beauty shops to seek additional information on past applicable minimum wages.

Ms. Martin commented that it may be an industry misconception that an apprentice is not an employee. Executive Officer Kai commented that the Board's consistent position has been that apprentices are employees, based on the Apprenticeship Manual included in the Board's administrative rules. She noted that a notice from DLIR would more effectively disseminate this information to barber shops and beauty shops, and noted that the proposed memo be placed on DLIR letterhead rather than the Board's letterhead. Ms. Howard commented that the notice has no mention about the benefits due an employee from an employer; Ms. Martin acknowledged that the notice may

need to be expanded to address the issues of healthcare, TDI, and other benefits to which an employee is entitled.

The Board discussed further how to communicate this information to its licensees, and suggested that an information sheet be included in the application materials for the registration of an apprentice and for beauty shop and barber shop licenses. Ms. Martin stated that her office would provide a short informational bulletin to be included in the materials issued to prospective registrants and licensees. In addition, inclusion of the bulletin on the Board's website was discussed.

After further discussion, Ms. Martin stated that the proposed notice would be on DLIR letterhead to be sent to all current barber shops and beauty shops, and requested that the Board provide a listing of all the business addresses of currently licensed shops. The Executive Officer agreed to pursue this request with the Licensing Administrator.

In addition, the Executive Officer asked if the Board could be apprised of the current case and any future cases that are investigated and resolved by the WSD, which may constitute violation of the Board's laws and rules, in order to request investigation of the matter by the Regulated Industries Complaints Office. Ms. Martin agreed to do so.

Ms. Martin and her staff was thanked for attending today's meeting.

Legislation and
Rules:

A. Senate Bill No. 2976, S.D. 2, H.D. 1, Relating to Licensing of Private Trade, Vocational, and Technical School

Executive Officer Kai reiterated that Senate Bill No. 2976, S.D. 2, H.D. 1, which proposed to transfer the regulation of private trade, vocational, and technical schools (including barber schools) from the Department of Education ("DOE") to the Department of Commerce and Consumer Affairs ("DCCA") has died this legislative session. At the Board's previous meeting, JoAnn Uchida Takeuchi (DCCA's Deputy Director) suggested that the Board amend HAR section 16-73-2 by removing the requirement that a school be approved by DOE and HAR section 16-73-20.5 by deleting the word "licensed". Deputy Director Uchida Takeuchi had also acknowledged that consumer protection should be the focus

of any amendments to the Board's rules, and that removing all references to the licensure of barber schools may require the stand-alone program to include a bond requirement, as is currently required in the DOE program.

The Board was requested to consider the three (3) options:

1. Keep the HAR as is;
2. Delete "by the state department of education" in HAR section 16-73-2, and delete "licensed" in HAR section 16-73-20.5 to remove the licensing requirement for barber schools; or
3. Delete all references to the DOE but keep the licensure requirement for a barber school; thereby continuing to require that a barber applicant's training be earned at a barber school that is licensed.

After discussion, the consensus of the Board was to table this matter to the next meeting.

Examination:

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

Due to Mr. Nelson's excused absence, this agenda item was tabled to the Board's next meeting.

Executive
Officer's
Report:

- A. Proposed Industry Bulletin Relating to Skin Care Machines and Devices

Executive Officer Kai stated that her draft of the proposed Industry Bulletin relating to skin care machines/devices had been presented to the Board and DAG Tam at the Board's April 11, 2016 meeting and at that meeting, the Board and DAG Tam were requested to review the draft for further discussion.

DAG Tam stated the draft is still under review because he noticed that the draft was substantially patterned after a similar California notice. DAG Tam asked the Board whether they wanted to copy California's notice verbatim, or did the Board want to come up with different topics as some of the information in the California notice may not be applicable to cosmetology in Hawaii or the Board has not fully discussed them. It was the consensus of the Board to table this matter to the Board's next meeting.

B. Board/Commission Orientation for Board Members Appointed in 2015 and 2016

Executive Officer Kai informed the Board that the Professional and Vocational Licensing Division is planning an orientation for board and commission members who were newly appointed in 2015 and 2016. It is scheduled for Tuesday, August 30, 2016, and will be held at the State Capitol Auditorium from 8:30 a.m. to 12:30 p.m. Possible topics to be presented:

- Ethics in Government,
- Sunshine Law,
- Contested Case Hearings,
- Administrative Procedure,
- Handling Complaints, and
- Role of Board/Commission member.

Executive Officer Kai asked that Board members interested in attending contact her as soon as possible, as a head count is needed by Friday, August 12, 2016.

Hawaii
Administrative
Rules ("HAR"):

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

Chairperson Marugame provided his committee's copy of the working draft rules. Discussion ensued on sanitation requirements of the department of health for barber shops. The Board would need to decide whether to keep the wording as is or to include the requirements the Board added as the result of the department of health's decision to no longer provide sanitation clearances to beauty shops, barber shops, and beauty schools.

B. HAR Chapter 16-78 (Cosmetology)

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

No report. Executive Officer Kai asked about the status of the rule revisions. The committee responded 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 provided an update on the rule revisions regarding the State authorization of licensed beauty schools by the U.S. Department of Education that had been completed with an effective date of September 26, 2015. She reiterated that at the last meeting, she mentioned that the notification of the rules revisions have been sent to the USDE on October 8, 2015, and a response from Dr. McArdle has not yet been received. She e-mailed Dr. McArdle again at the end of April 2016 and reported at the May 11, 2016 Board meeting that she did not receive an email response back. Subsequent to the Board's last meeting, Dr. McArdle responded that she was unable to locate the October 8, 2015 letter, and asked to have it re-sent. A pdf of the letter was emailed to her this morning.

Open Forum: None.

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

Announcements: Executive Officer Kai thanked Chairperson Marugame for his service to the Board as his second term to the Board concludes on June 30, 2016, and presented him with a certificate of appreciation. Chairperson Marugame suggested the Board consider returning to their bi-monthly meetings.

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

Lori Nishimura, Secretary

Board of Barbering and Cosmetology
Minutes of the June 20, 2016 Meeting
Page 11

Reviewed and accepted by:

/s/ Laureen M. Kai

Laureen M. Kai, Executive Officer

LMK:ln

07/14/16

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

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LTYPE	LIC	NUM	BP NAME	PART 1
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BEO	20869	MERCEDES I	<DERRICOTT<
BEO	20870	JAZZ M	<YEE<
BEO	20871	CHRISTINA P	<PATINO<
BEO	20872	BRITTANY D	<CURRY<
BEO	20873	KRISTINE A	<BRITTAIN<
BEO	20874	OPUULANI T E	<PASCUAL-TAM<
BEO	20875	AMANDA R	<HUR<
BEO	20876	ASHLEY R P	<NISHIYAMA<
BEO	20877	ASSARA	<RUKSAWONG<
BEO	20878	KEOLA KJ	<HOOHULI<
BEO	20879	VICTORIA S	<AIONA<
BEO	20880	RAINA K	<HOLAYTER<
BEO	20881	ALESIA	<CABRAL<
BEO	20882	CHANTAL R	<OGG<
BEO	20883	RACHELLE L	<CLEMMEY<
BEO	20884	ASHLEY B	<JOHNSON<
BEO	20885	CHELSEA K	<ADAMS<
BEO	20886	SARAH M	<TATE<

JUN 20 2016

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LTYPE	LIC	NUM	BP NAME	PART 1
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BAR	3648	NORLYN J	<GADINGAN<
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