

BOARD OF BARBERING AND COSMETOLOGY

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

MINUTES OF MEETING

Date: Monday, October 10, 2016

Time: 1:00 p.m.

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

Present: Lynnette F. McKay, Cosmetology Member, Chairperson
Alexander Choi, Public Member
Chad Nelson, Public Member
Anne Tokunaga, Cosmetology Member
Margaret Williams, Barber Member
Laureen M. Kai, Executive Officer
Lori Nishimura, Secretary

Excused: Angela Howard, Public Member, Vice-Chairperson
Rodney J. Tam, Deputy Attorney General ("DAG")

Guests: Lei S. Fukumura, Special Deputy Attorney General ("SDAG")
Daria Loy-Goto, Complaints and Enforcement Officer, Regulated
Industries Complaints Office ("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 1:00 p.m. by Chairperson McKay.

Additions/
Revisions to
Agenda: None.

Welcome and
Introduction of
New Board
Member: Chairperson McKay introduced and welcomed new member,
Margaret Williams to the Board. Ms. Williams will be one of two
Board members who are mandated pursuant to HRS section
Margaret Williams: 438-3 to represent the barber profession.

Mr. Choi arrived to the meeting at 1:05 p.m.

Minutes of the
September 12,
2016 Board
Meeting:

After discussion, it was moved by Mr. Nelson, seconded by Ms. Tokunaga, and unanimously carried to approve the minutes of the September 12, 2016 Board meeting, as circulated.

At 1:07 p.m., the Board recessed the meeting to discuss and deliberate on the following adjudicatory matter pursuant to HRS chapter 91.

Chapter 91,
HRS, Adjudicatory
Matters:

A. In the Matter of the Barber's License of Anthony A. Acia;
BAR 2016-37-L

SDAG Fukumura provided a summary of the Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Board's Final Order; Exhibits "A" and "B" regarding Anthony A. Acia, Respondent. She stated that RICO alleges that the Respondent, who holds a barber's license:

- On or about December 26, 2009, Respondent indicated "no" to question number 3 on his renewal application "In the past 2 years have you been convicted of a crime which has not been annulled or expunged?"; Respondent was convicted on August 3, 2009 of Driving Under the Influence of Intoxicant; and
- On or about December 28, 2015, Respondent indicated "no" to question number 3 on his renewal application "In the past 2 years have you been convicted of a crime which has not been annulled or expunged?"; Respondent was convicted on November 24, 2014 of Operating a Vehicle Under the Influence of an Intoxicant.

To settle this matter, the Respondent agrees to the following terms of the Settlement Agreement:

- Administrative fine in the amount of seven hundred fifty (\$750.00) 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. Nelson, seconded by Ms. Tokunaga, and unanimously carried to approve the

Settlement Agreement relating to the Matter of the Barber's License of Anthony A. Acia; BAR 2016-37-L.

At 1:11 p.m., the Board reconvened its scheduled meeting. Immediately thereafter, it was moved by Ms. Tokunaga, seconded by Mr. Choi, 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 1:17 p.m., it was moved by Ms. Tokunaga, seconded by Mr. Choi, and unanimously carried for the Board to move out of Executive Session and to reconvene its scheduled meeting.

Applications:

A. Ratification of Issued Licenses

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

B. Beauty Shop/Barber Shop License

- (1) BETTY'S BEAUTY LLC (New Beauty Shop)
- (2) CLEMENTS, Ian H. J. dba THE PARLOR KAUAI
(New Barber Shop)
- (3) HASHIMOTO, Tayni A. K. dba RETREAT BEAUTY STUDIO
(New Beauty Shop)
- (4) MAUI OPERATING LLC dba THE WESTIN MAUI
RESORT & SPA (New Beauty Shop)
- (5) MS HAIR SALON LLC dba MEN'S GROOMING SALON SKY
(New Barber Shop)
- (6) MS HAIR SALON LLC dba MEN'S GROOMING SALON SKY
(New Beauty Shop)
- (7) SHEEN, Naomi K. K. (New Beauty Shop)
- (8) SUPERCUTS CORPORATE SHOPS, INC. dba SUPERCUTS
(New Beauty Shop – business address: 91-5431
Kapolei Parkway, Suite 1107, Kapolei, HI 96707)

The barber shop and beauty shop applications above were preliminarily reviewed by licensing branch staff, the

Executive Officer, Chairperson McKay, and Ms. Tokunaga (the designated Board members to review the barber shop and beauty shop applications for consideration for this Board meeting).

Chairperson McKay stated that she and Ms. Tokunaga reviewed the eight (8) applications, and concluded that they met all requirements for barber shop and beauty shop licenses, and recommends approval.

After discussion, it was moved by Mr. Choi, seconded by Mr. Nelson, and unanimously carried to approve the eight (8) barber shop and beauty shop applications listed above.

Possible Proposed
Legislation
Relating to
Cosmetology by
the Regulated
Industries
Complaints Office
Daria Loy-Goto,
Complaints and
Enforcement
Officer:

The Board welcomed Daria Loy-Goto, Complaints and Enforcement Officer of RICO. Ms. Loy-Goto thanked the Board for allowing her to address the Board to seek support on possible legislation regarding citations for beauty culture violations, to be proposed by RICO in the 2017 State Legislative Session.

Ms. Loy-Goto explained that the proposed bill will seek to authorize the issuance of citations to licensees and permittees who violate specific beauty culture laws, by adding a new section to HRS chapter 439. She commented that currently there is no mechanism to issue such citations and that this proposed legislation will establish a citation process as an alternative means for the Board to address specific beauty culture violations. She provided a brief summary of those specific violations that may warrant the issuance of a citation, as follows:

- Failure of a beauty operator, beauty instructor, beauty school, beauty apprentice, or temporary permittee to display a license or permit in a conspicuous space in the office, place of business or employment, or school, during all hours of operation;
- Failure of a beauty shop owner or beauty school to ensure that only individuals holding a current and appropriate license or permit are engaged in the practice of cosmetology in the beauty shop or beauty school;
- Failure of a beauty shop to conspicuously display, in all reception and work rooms, a sign that reads "PRICE LIST AVAILABLE UPON REQUEST" in capital letters at least three-fourths inch in size;

- Failure of a beauty school to identify each instructor-trainee at the beauty school during all hours of instruction with a name tag stating "Instructor-trainee";
- Failure of a beauty school to identify each instructor at the beauty school during all hours of instruction with a name tag stating "instructor" and identifying the instructor's appropriate beauty operator category;
- Failure of a beauty school during all hours of instruction to operate the beauty school with an instructor-student ratio of one instructor for every twenty-five students, or with a minimum of two licensed instructors; and
- Failure of a beauty school that is providing beauty culture services on or for members of the public to display in a conspicuous place in the reception and work rooms one or more signs at least 18" x 24" in size that reads "School of Beauty Culture – Work done by students under supervision".

Ms. Loy-Goto commented that above-listed violations of HRS chapter 439 are clear-cut and easily detected by RICO investigators, and issuing citations for such violations would be a much-needed enforcement tool to expedite investigations for the limited number of RICO investigators and legal staff, which may result in increased numbers and frequency of compliance sweeps.

The proposed citation process may alleviate workload involving violations in specific circumstances and will allow investigators and staff attorneys to concentrate their time and effort on more serious infractions that may be of more critical importance.

Ms. Loy-Goto further mentioned that each citation would assess a fixed fine of \$100.00, a fine amount that may be more appropriate for this type of violation. She stated that the proposed citation process would streamline the efforts of the investigator since the right to appeal and to contest the citation would be served to the licensee at the time of the issuance of the citation.

The Board thanked Ms. Loy-Goto for her presentation.

Examination:

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

Executive Officer Kai stated that she and Chairperson McKay attended the NIC 2016 Annual Conference and had met with Rosanne Kinley, NIC representative who had visited the

Board previously and with whom Mr. Nelson was communicating. Ms. Kai commented that Ms. Kinley expressed interest in helping this Board by providing a sample RFP that the Board may utilize in its efforts to propose NIC testing in this State. Ms. Kai also informed the Board that Ms. Kinley has been informed that Mr. Nelson is the contact person on this matter.

Executive
Officer's Report:

A. Proposed Notice from the Department of Labor and Industrial Relations to Hawaii Barber Shops and Beauty Shops Regarding the Use of Unpaid Interns and/or Apprentices – Update

Executive Officer Kai stated she has no new updates on the proposed notice, from the Department of Labor and Industrial Relations ("DLIR") to Hawaii barber shops, beauty shops, and beauty schools, regarding the use of unpaid interns and/or apprentices, to notify them that apprentices working in their establishments must be paid at least minimum wage. The proposed notice would also recommend that barber shops, beauty shops, and beauty schools that have utilized 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 also include the DLIR website address and telephone numbers to seek additional information on past applicable minimum wages.

Executive Officer Kai reiterated that the notice is still pending the approval from both DAGs assigned to the respective division/department, and upon approval for dissemination, the Director of DLIR has decided to publicize the event to the media.

B. Proposed Industry Bulletin Relating to Skin Care Machines and Devices

Executive Officer Kai stated the proposed industry bulletin relating to skin care machines and devices is still pending revisions by DAG Tam. She reiterated that at the last meeting DAG Tam suggested the proposed industry bulletin should be general, state that an individual may want to consult with an attorney, and/or refer to the definitions in HRS section 439-1. DAG Tam had also commented that

specific skin care machines and devices are not addressed in the Board's laws and rules, and the law does not use the word "invasive".

Hawaii
Administrative
Rules ("HAR"):

A. Proposed Revisions to HAR Chapter 16-73 Relating to Licensure of Barber Schools

Discussion ensued on the proposed revisions to HAR Chapter 16-73 relating to licensure of barber schools. Executive Officer Kai reminded the Board of Deputy Director Jo Ann M. Uchida Takeuchi's visit to the meeting of April 11, 2016, to suggest for the Board to remove references to the Department of Education ("DOE") in HAR section 16-73-2 and to omit the word "licensed" in HAR section 16-73-20.5. Ms. Kai reiterated that these suggestions were made in light of a bill heard in the 2016 Legislative Session, Senate Bill No. 2976, that proposed to place the regulation of barber schools within the DCCA under a stand-alone program, rather than under the jurisdiction of the State Department of Education; and thereby subjecting barber schools to the possibility of a huge increase in fees of up to \$19,000 for a license.

The Executive Officer once again enumerated the three (3) options for the Board to consider, and strongly encouraged members to review each to determine the Board's position on the matter:

1. Keep the HAR sections as currently written;
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.

Mr. Nelson left the meeting at 2:15 p.m.

After discussion, it was moved by Mr. Choi, seconded by Ms. Tokunaga, and unanimously carried to table this matter to the next meeting. Executive Officer Kai again strongly encouraged Board members to carefully consider each option in order to solidify a Board position.

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.

Open Forum: None.

Next Board Meeting: Monday, November 14, 2016
1:00 p.m.
Queen Liliuokalani 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 2:23 p.m.

Taken and recorded by:

/s/ Lori Nishimura

Lori Nishimura, Secretary

Reviewed and accepted by:

/s/ Laureen M. Kai

Laureen M. Kai, Executive Officer

LMK:ln

11/07/16

[] Minutes approved as is.

[X] Minutes approved with changes. See Minutes of November 14, 2016 .

LTYPE LIC NUM BP NAME PART 1

BEO	20990	SERINA C W <HO<
BEO	20991	RHONDA <ADAMS<
BEO	20992	CATHLEEN <MCLAUGHLIN<
BEO	20993	VICTORIA A <SALDUCCO<
BEO	20994	CHIE <KAWAMURA<
BEO	20995	LASHONDA R <LEE-BUCKNER<
BEO	20996	DORILEE P <AU<
BEO	20997	ANDREA D <MORORO<
BEO	20998	CARLOS E <MONTANO<
BEO	20999	HOA THUY PHAM <WONG<
BEO	21000	LUONG D <NGUYEN<
BEO	21001	SHINKO S <CAMARAO<
BEO	21002	IVY T <SARMIENTO<
BEO	21003	NHU THI THUY <PHAM<
BEO	21004	KEZIAH A A <BUMAGAT<
BEO	21005	THU HUE <NGUYEN<
BEO	21006	SHAN <YU<
BEO	21007	REMIE ANN A <FELIPE<
BEO	21008	SAYO K <JACKSON<
BEO	21009	SHUKO <OTANI<
BEO	21010	HUYEN NGOC <NGUYEN<
BEO	21011	MIKI <ITO<
BEO	21012	POL <TRAN<

OCT 10 2016