

BOARD OF BARBERING AND COSMETOLOGY

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

MINUTES OF MEETING

Date: Thursday, March 16, 2017

Time: 1:20 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
Anne Tokunaga, Cosmetology Member
Margaret Williams, Barber Member
Rodney J. Tam, Deputy Attorney General ("DAG")
Laureen M. Kai, Executive Officer
Lori Nishimura, Secretary

Excused: Chad Nelson, Public Member

Guests: Theresa Gilliland, Hawaii State Coalition Against Domestic
Violence ("HSCADV")
David Weiss, The Spa at Black Rock

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 1:20 p.m. by Chairperson McKay.

Minutes of the
February 13,
2017 Board
Meeting: After discussion, it was moved by Ms. Williams, seconded by
Ms. Tokunaga, and unanimously carried to approve the minutes
of the February 13, 2017 Board meeting, as circulated.

At 1:21 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 Beauty Operator's License of Nicole Tran;
BAR 2016-99-L

DAG Tam provided a summary of the Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Board's Final Order regarding Nicole Tran, Respondent. He stated that the Regulated Industries Complaints Office ("RICO") alleges that the Respondent, who holds a beauty operator's license and "is involved in the management and operation of Kamuela Nails & Spa", allowed one individual who did not possess the appropriate cosmetology license to provide cosmetology services for compensation. RICO also alleges that the Respondent violated HRS section 439-19(a)(3).

To settle this matter, the Respondent agrees to the following 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 Ms. Tokunaga, seconded by Mr. Choi, and unanimously carried to approve the Settlement Agreement relating to the Matter of the Beauty Operator's License of Nicole Tran; BAR 2016-99-L.

At 1:23 p.m., the Board reconvened its scheduled meeting and immediately entered 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 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 1:40 p.m., it was moved by Ms. Tokunaga, seconded by Mr. Choi, and unanimously carried for the Board to move out of Executive Session. DAG Tam stepped out of the meeting at this time.

Applications:

A. Ratification of Issued Licenses

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

B. Beauty Shop/Barber Shop License

- (1) 808 HAIR SALON INC (New Beauty Shop)
- (2) EWA HAIR & NAILS LLC (New Beauty Shop)
- (3) GUSTAFSON INC. dba 18/8 FINE MEN'S SALONS
(New Barber Shop)
- (4) HAWAIIAN RAINFOREST LLC
(New Beauty Shop)
- (5) KIM, Dana H.S. dba SALON DANA (New Beauty Shop)
- (6) LAKE-HASHI, Patricia E. (New Beauty Shop)
- (7) NAIL ENVY LLC dba NAIL ENVY NAIL STUDIO
(New Beauty Shop)
- (8) NEZAMLOO AND BESARIO INC. dba LILY'S NAIL SPA
AND HAIR SALON
(Relocation of Beauty Shop: BSH 4785)
- (9) PATTERSON, Dawn M. dba DAWN'S BARBER SHOP
(Relocation of Barber Shop: BAS 1526)
- (10) STYLE SESSION HAWAII LLC (New Beauty Shop)
- (11) SUEHIRO GARY LLC dba LA SPA HAWAII
SHIRODHARA WITH ALOHA (New Beauty Shop)
- (12) SUPERCUTS CORPORATE SHOPS, INC. dba SUPERCUTS
(New Barber Shop)
Business address – 80 Hookele Street, Suite 420,
Kahului, HI 96732
- (13) TAM & VAN COMPANY, INC. dba NAIL MAX
(New Beauty Shop)
- (14) THE SPA AT BLACK ROCK, INC. dba
THE SPA AT BLACK ROCK (New Beauty Shop)
- (15) VASQUEZ, Namer A. dba INDULGENCE BY
SHANTÉ STUDIO (New Beauty Shop)

The barber shop and beauty shop applications above were preliminarily reviewed by licensing branch staff, the Executive Officer, Chairperson McKay, and Ms. Tokunaga (the Board members designated 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 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 Chairperson McKay, seconded by Mr. Choi, and unanimously carried to approve the fifteen (15) barber shop and beauty shop applications listed above.

C. Restoration of License

(1) LOQUE, Vilma Domingo (BEO 13591)

After discussion, it was moved by Chairperson McKay, seconded by Mr. Choi, and unanimously carried to approve the restoration of the beauty operator's license of Vilma Domingo Loque.

(2) MATSUDA, Valerie n.k.a. GOO, Valerie S. (BEO 12814)

After discussion, it was moved by Chairperson McKay, seconded by Mr. Choi, and unanimously carried to approve the restoration of the beauty operator's license of Valerie Matsuda n.k.a. Valerie S. Goo.

The consensus of the Board was to take the following agenda item out of order, in order to alleviate the wait time for guest, Theresa Gilliland, from HSCADV, one of the proponents of the Legislative bills relating to intimate partner violence.

Legislation:

B. Relating to Intimate Partner Violence

(1) House Bill No. 680, House Draft 2

(2) Senate Bill No. 518, Senate Draft 2

Ms. Gilliland was welcomed by the Board. She provided a brief summary of HSCADV. She informed the Board of the *Cut It Out* program – a program of the Professional Beauty Association Foundation. *Cut It Out's* mission is “dedicated to mobilizing salon professionals and others to fight the epidemic of domestic abuse in communities across the U.S. by building awareness and training salon professionals to recognize warning signs and safely refer clients, colleagues, friends, and family to local resources.”

Cut it Out currently has no educator/trainer in Hawaii; therefore, *Cut It Out* will train an individual or individuals to be the educator(s) for the program in Hawaii and they will be provided with the materials to educate and train other beauty culture professionals to be more able to recognize signs of domestic violence that their clients may exhibit, and to be aware of the resources to which the beauty culture professionals would be able to refer these clients.

Ms. Gilliland stated that, according to the Federal Centers for Disease Control and Prevention, more than one in three women and more than one in four men in the U.S. have experienced rape, physical violence, or stalking by an intimate partner in their lifetime. She stated that it has been found that the providers of beauty and barbering services often enjoy close relationships with their clients and many times, the professional is in a unique position to identify a potentially concerning situation. She added that these professions have been the focus of these bills because the professionals in these areas are in relationships with clients that support the spread of this type of information in a highly concentrated avenue to get the message across. She commented that repercussion against someone who may become involved in this way is “highly unlikely” and that only a miniscule percentage of times will the abuser retaliate against the third party or advocate.

Executive Officer Kai asked Ms. Gilliland if the completion of this training as a condition of initial licensure and for the renewal of licensure was considered by the proponents of the bill.

Ms. Gilliland was unsure what actually initiated this requirement; however, she believes that careful consideration was given to all that would be required of beauty and barber licensees. The Executive Officer responded that the Board’s testimony throughout the legislative session has been that requiring the training within a regulatory framework may elevate the level of responsibility of the

licensee beyond the scope of practice that a barber or beauty operator should be expected to perform. She wondered whether this proposal is unprecedented in Hawaii, and asked if other avenues to educate or other professionals were considered as well. Ms. Kai further commented that this type of training may be more conducive and applicable to the education and training of beauty and barber students, through inclusion in the theory portion of the school or apprenticeship curriculum.

Ms. Gilliland remarked that the required training may be as simple as watching a DVD, as it is in the *Cut it Out* program. She acknowledged that the passing of similar legislation in Illinois was the reason the proponent of these bills, the Hawaii Women's Coalition, decided to work toward accomplishing the same in Hawaii.

DAG Tam re-entered the meeting at 2:00 p.m.

Discussion ensued on the training requirement of the intimate partner violence bills. Ms. Gilliland confirmed that HSCADV's intent is for a one-time awareness training, and not as a condition for every renewal. She added that the licensee has no obligation to report any situation encountered that may be indicative of intimate partner violence. She gave assurance that the Board is not expected to develop the training program; rather, the Board will work together with the *Cut It Out* Program educators. She added that this training is not only helpful for a client who may need this help and support, but it may also educate the licensees themselves, who may not realize that they are in an intimate partner violence situation.

After discussion, the Board reached consensus that its position in support of the intent of these bills had been reaffirmed, and that the concerns identified by the Board continue to be the subject of additional consideration and discussion.

Ms. Gilliland was thanked for attending today's meeting.

At 2:31 p.m., it was moved by Chairperson McKay, seconded by Mr. Choi, 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 2:47 p.m., it was moved by Ms. Tokunaga, seconded by Mr. Choi, and unanimously carried for the Board to move out of Executive Session. It was noted that DAG Tam left the meeting during this Executive Session.

The Board resumed the order of the meeting with the following agenda:

Executive Officer's Report:

A. Cosmetology Examination

Executive Officer Kai provided the following results of the Cosmetology Examination:

(1) October 2016

Total Exams Scheduled	363
Total Exams Administered	347
Total Exams Passed	130 (37% pass rate)
Total Exams Failed	217 (63% pass rate)

(2) January 2017

Total Exams Scheduled	275
Total Exams Administered	267
Total Exams Passed	111 (42% pass rate)
Total Exams Failed	156 (58% pass rate)

B. Inquiry regarding Elleebana Eyelash Perming/Lifting

Executive Officer Kai stated the Board received an inquiry on the acceptability of a licensed cosmetologist or esthetician providing the service called Elleebana eyelash perming/lifting.

After discussion, the Board reaffirmed its position that eyelash services are within the scope of practice of a licensed cosmetologist or licensed esthetician (or licensed barbers). The Board requested that the Executive Officer notify the inquirer that the Board does not make any determination relating to equipment or products used in the barbering and beauty industry. And that in the past, the Board has opined that medical-grade equipment, products, and procedures are

not regulated by the Board and that only esthetician-grade equipment, products, and procedures can be used and performed by licensees. However, a specific determination on whether a specific service or device is allowable is not within the purview of the Board.

At 3:04 p.m., the Board recessed the meeting.

At 3:12 p.m., the Board reconvened its meeting.

Legislation:

The Board acknowledged and thanked Ms. Williams for attending the numerous legislative hearings on behalf of the Board.

A. Relating to Citations for Violations of HRS chapter 439

Executive Officer Kai reiterated that the three (3) bills propose to authorize the Regulated Industries Complaints Office ("RICO") to issue citations for violations of specific beauty culture laws by licensees and permittees. Those violations are:

1. Failure of a licensee to display license or permit in a conspicuous place in place of business or employment;
2. Failure of a beauty shop owner or beauty school to ensure that only appropriately licensed or permitted individuals engage in the practice;
3. Failure of a beauty shop to conspicuously display a sign that reads "PRICE LIST AVAILABLE UPON REQUEST" in capital letters at least $\frac{3}{4}$ inch in size;
4. Failure of a beauty school to identify each instructor-trainee with a name tag;
5. Failure of a beauty school to identify each instructor with a name tag stating "Instructor" and identifying the beauty category;
6. Failure of a beauty school to operate with an instructor-student ratio of 1 instructor for every 25 students, or a minimum of 2 licensed instructors; and
7. Failure of a beauty school to display at least 1 sign stating "School of Beauty Culture – Work done by students under supervision" in print at least 18 inches by 24 inches.

Discussion ensued on the latest versions of the bills:

- (1) House Bill No. 1081, House Draft 2

Executive Officer Kai provided the following brief summary of the legislative history of House Bill No. 1081, House Draft 2, Relating to citations for beauty culture violations:

- House Bill No. 1081 passed as House Draft 1 with the following amendments by the Intrastate Commerce ("IAC") Committee:
 - a) Add "beauty shop" as a place of business or employment that must display a license or permit in a conspicuous place during all hours of operation, thereby correcting an inadvertent drafting error; and
 - b) Insert an effective date of July 1, 2099.
- House Bill No. 1081, House Draft 1 passed as House Draft 2 with the following amendment by the Consumer Protection & Commerce ("CPC") Committee:
 - a) Add language (Section 2) that establishes that a person selling or demonstrating a beauty product or technique must be licensed as a cosmetologist or esthetician, unless the person is not compensated and obtains written consent to provide the service from the person receiving the service.
- House Bill No. 1081, House Draft 2 was passed unamended by the Judiciary ("JUD") Committee, although its' Committee Report expressed grave concerns with Section 2 added by the CPC.
- House Bill No. 1081, House Draft 2 crossed over to the Senate and was amended to House Bill No. 1081, House Draft 2, Senate Draft 1 by the Consumer Protection and Health ("CPH") Committee with the following amendment:
 - a) Delete the contents of the bill and insert the content of Senate Bill No. 947, Senate Draft 2, a substantially similar measure, with an effective date of July 1, 2017.
- The bill is now House Bill No. 1081, House Draft 2, Senate Draft 1, and has been referred to the

Judiciary and Labor ("JDL") Committee and the Ways and Means ("WAM") Committee.

After discussion, it was moved by Ms. Williams, seconded by Mr. Choi, and unanimously carried for the Board to testify in strong support of House Bill No. 1081, House Draft 2, Senate Draft 1, Relating to citations for beauty culture violations, thereby confirming that the Board's administrative rules will not be amended to repeal the exemption from licensure for "manufacturer's representatives or sales persons in retail outlets who sell beauty products or techniques for promotional purposes without compensation for the cosmetology services", pursuant to HAR section 16-78-36(4).

(2) Senate Bill No. 947, Senate Draft 2

Executive Officer Kai provided the following brief summary of the legislative history of Senate Bill No. 947, Senate Draft 2, Relating to citations for beauty culture violations:

- Senate Bill No. 947 passed as Senate Draft 1 with the following amendment by the CPH Committee:
 - a) Specify that a beauty shop is a place of business or employment that must display a license or permit in a conspicuous place during all hours of operation, thereby correcting an inadvertent drafting error.
- Senate Bill No. 947, Senate Draft 1 passed as Senate Draft 2 with the following amendments by the WAM Committee:
 - a) Clarify that name tags to be worn by beauty school employees during hours of instruction must state the employee's full name;
 - b) Clarify that signs displayed in a beauty school's reception room and workrooms (that state "School of Beauty Culture – Work done by students under supervision") must be displayed using letters not less than ½ inch high.

- Senate Bill No. 947, Senate Draft 2 crossed over to the House and was amended to Senate Bill No. 947, Senate Draft 2, House Draft 1 by the IAC Committee with the following amendments:
 - a) Make technical, non-substantive amendments;
 - b) Insert an effective date of July 1, 1990.
- The bill is now Senate Bill No. 947, Senate Draft 2, House Draft 1, and has been referred to the CPC Committee and the Judiciary (“JUD”) Committee.

After discussion, it was moved by Ms. Williams, seconded by Mr. Choi, and unanimously carried for the Board to testify in strong support of Senate Bill No. 947, Senate Draft 2, House Draft 1, Relating to citations for beauty culture violations, and to request an amendment to the bill to restore the effective date to the original effective date of July 1, 2017.

(3) House Bill No. 896, House Draft 1

Executive Officer Kai provided the following brief summary of the legislative history of House Bill No. 896, House Draft 1, Relating to citations for beauty culture violations:

- House Bill No. 896 passed as House Draft 1 with the following amendments by the IAC Committee:
 - a) Adjust the amount of the fine to not more than \$100 for each violation; and
 - b) Change the effective date to July 1, 2099 to promote further discussion.
- The bill is now House Bill No. 896, House Draft 1, and has been referred to the CPC committee; to date, no hearing has been scheduled.

After discussion, it was moved by Ms. Williams, seconded by Mr. Choi, and unanimously carried for the Board to testify in strong support of House Bill No. 896, House Draft 1, Relating to citations for beauty culture violations, and to request an amendment to the bill to restore the effective date to the original effective date of July 1, 2017.

B. Relating to Intimate Partner Violence

Executive Officer Kai reiterated a brief summary of the companion bills noted below relating to intimate partner violence. She stated the two (2) bills propose to require individual licensees (barbers, beauty operators and instructors) to undergo training (one-time, one-hour awareness education program) that would enable them to be aware of and recognize signs of intimate partner violence shown by their clients, so that if a licensee observes indications that the client is experiencing such violence, the licensee would have been trained and provided with resources to address the problem (e.g., referring the client to the appropriate social services or domestic violence organizations). Further, the bills propose that all applicants for licensure need to have obtained this training and all licensees must take the training in order to renew their licenses. The bills also propose that any licensee who completes the training shall not be civilly or criminally liable for acting in good faith or failing to act on information concerning potential intimate partner violence obtained during the course of employment.

(1) House Bill No. 680, House Draft 2

Executive Officer Kai provided the following brief summary of the legislative history of House Bill No. 680, House Draft 2, Relating to intimate partner violence:

- House Bill No. 680 passed as House Draft 1 with the following amendments by the IAC Committee:
 - a) Remove the one-hour requirement; and
 - b) Appropriate funds for the program in an unspecified amount; and
 - c) Change the effective date to 07/01/2099 to promote further discussion.

- House Bill No. 680, House Draft 1, passed as House Draft 2 with the following amendments by the CPC Committee:
 - a) Refer to the training as a one-time awareness education program;
 - b) Clarify that the requirement applies to individual barbers and beauty operators and to the

- applicants for a barber or beauty operator license;
 - c) Remove the requirement that a licensee or applicant needs to submit evidence of completion of the program;
 - d) Require the DCCA to adopt materials made available by a selected nonprofit intimate partner violence awareness education program (rather than developing these materials);
 - e) Specify that anyone who assaults or threatens to cause bodily injury to a barber or beauty operator for acting on information obtained during the course of employment to be guilty of a misdemeanor; and
 - f) Delete the appropriation for the training.
- House Bill No. 680, House Draft 2, crossed over to the Senate and was amended to House Bill No. 680, House Draft 2, Senate Draft 1, by the CPH Committee with the following amendments:
 - a) Delete the contents of the bill and insert the contents of Senate Bill No. 518, Senate Draft 2; and
 - b) Insert an effective date of July 1, 2017.
 - The bill is now House Bill No. 680, House Draft 2, Senate Draft 1 has been referred to the Judiciary and Labor ("JDL") Committee.

After discussion, it was moved by Ms. Williams, seconded by Mr. Choi, and unanimously carried for the Board to provide testimony in support of the intent of the bill, and that the concerns identified by the Board continue to be the subject of additional consideration and discussion with the proponents of House Bill No. 680, House Draft 2, Senate Draft 1, Relating to intimate partner violence.

(2) Senate Bill No. 518, Senate Draft 2

Executive Officer Kai provided the following brief summary of the legislative history of Senate Bill No. 518, Senate Draft 2, Relating to intimate partner violence:

- Senate Bill No. 518 passed as Senate Draft 1 with the following amendments by the CPH Committee:
 - a) Specify that licensees will need to complete a one-time, three-hour training program; and
 - b) Clarify that barbers, beauty operators, and instructors are required to complete the training.
- Senate Bill No. 518, Senate Draft 1 passed as Senate Draft 2 with the following amendments by the JDL Committee:
 - a) Require DCCA to develop the training in coordination with a domestic violence intervention program, rather than the HSCADV; and
 - b) Insert an effective date of January 7, 2059 to encourage further discussion.
- Senate Bill No. 518, Senate Draft 2, crossed over to the House and was referred to the IAC and CPC Committees. No hearings have yet been scheduled.

After discussion, it was moved by Ms. Williams, seconded by Mr. Choi, and unanimously carried for the Board to provide testimony in support of the intent of the bill, and that the concerns identified by the Board continue to be the subject of additional consideration and discussion with the proponents of Senate Bill No. 518, Senate Draft 2, Relating to intimate partner violence.

Open Forum: None.

Next Board Meeting: Due to an unexpected conflict in his schedule, Mr. Choi stated that he was unable to attend the next scheduled meeting of April 10, 2017. After discussion, the consensus of the Board was to reschedule the meeting to the following date in order to attain quorum.

~~Monday, April 10, 2017~~ → Thursday, April 13, 2017

Next Board Meeting:

Thursday, April 13, 2017
1:00 p.m.
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 3:32 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

04/05/17

- Minutes approved as is.
 Minutes approved with changes. See Minutes of _____.

LTYPE LIC NUM BP NAME PART 1

BEO 21165 JENNA A <KOSINSKI-SANTOS<
BEO 21166 TERRY T <BOOKHART<
BEO 21167 KAREN L <PARKER<
BEO 21168 LAURA A <MERCER<
BEO 21169 GENESE J L <BROWN<
BEO 21170 GINA M <GRIESINGER<
BEO 21171 SIRINAPA <APORNRAT<
BEO 21172 SENE M <FOREST-CANADA<

MAR 16 2017

LTYPE LIC NUM BP NAME PART 1

BAR 3684 TATYANA K <ENOCENCIO-DUCOSIN<
BAR 3685 MARK <PANGANIBAN<