

BOARD OF BARBERING AND COSMETOLOGY

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

MINUTES OF MEETING

Date: Wednesday, May 14, 2014

Time: 9:00 a.m.

Place: King Kalakaua 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
Christobal Quintana, Barber Member
Rodney J. Tam, Deputy Attorney General ("DAG")
Laureen M. Kai, Executive Officer
Lori Nishimura, Secretary

Excused: Lynnette F. McKay, Cosmetology Member
Chad Nelson, Public Member

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 9:00 a.m. by Chairperson Marugame.

Additions/
Revisions to
Agenda: Executive Officer Kai requested to amend the following agenda item:
#5. Applications
C. Beauty Shop/Barber Shop License
(1) Advanced Medi-Spa LLC (New Beauty Shop Relocation)

After discussion, it was moved by Ms. Howard, seconded by Mr. Quintana, and unanimously carried to approve the aforementioned amendment to the agenda.

Executive
Session:

At 9:01 a.m., it was moved by Ms. Howard, seconded by Mr. Quintana, 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 9:32 a.m., it was moved by Mr. Quintana, seconded by Mr. Choi, and unanimously carried for the Board to move out of Executive Session.

Minutes of the
April 7, 2014
Board Meeting:

After discussion, it was moved by Ms. Howard, seconded by Mr. Quintana, and unanimously carried to approve the minutes of the April 7, 2014 Board meeting, as circulated.

After discussion, it was moved by Ms. Howard, seconded by Mr. Quintana, and unanimously carried to approve the Executive Session minutes of the April 7, 2014 Board meeting, as amended.

Discussion ensued on the April 7, 2014 open session minutes. DAG Tam stated that he wanted to clarify that under Act 185 (2013) and HRS section 436B-14.7, it is the Board that has the responsibility to evaluate and determine whether the licensing requirements of the military spouse's out of state current license are equivalent to or exceed our state's licensing requirements. The new law requires the Board to determine whether the other state's education, experience, and examination requirements are equivalent to or exceed Hawaii's requirements. It is not up to the Department of the Attorney General nor the advising Deputy Attorney General to determine equivalency; it is the Board's responsibility.

With respect to the examination, DAG Tam stated that the Board may want to compare the examinations side-by-side to determine if the subjects are equivalent. He further commented that it would be up to the Board to determine what kind of proof would be required from applicants to demonstrate equivalency of the exams. The Board can either compare the actual exams or compare the content outlines of the exams. DAG Tam stressed

that he does not have the background, expertise, or authority to determine equivalency, especially exam equivalency as he has never seen any of the examinations.

DAG Tam also commented that if the Board takes the position that no other exam is "equivalent" to Hawaii's exam because that other exam does not have any questions on Hawaii's laws and rules, then no applicant may be able to qualify under HRS section 436B-14.7. He then provided an example of another Hawaii board that required a military spouse applicant to provide a detailed exam content outline of the licensing exam she took, and the Hawaii board compared the other state's exam content outline with Hawaii's exam content outline. After careful consideration, that board determined that the subjects tested on both exams were substantially identical or equivalent, except for the fact that Hawaii's exam tested applicants on Hawaii's laws and rules. Nevertheless, that board accepted the military spouse's acknowledgement in her application that she read and agreed to comply with Hawaii's laws and rules, and determined that this satisfied the Hawaii laws and rules component of the Hawaii exam. Thus, that board issued the military spouse a reciprocal license under HRS section 436B-14.7 and did not let the fact that the other state's exam did not have questions on Hawaii's laws and rules prevent the applicant from being licensed here.

DAG Tam suggested that the Board may want to follow this procedure. After much discussion, the consensus of the Board was to subsequently follow the above procedure when it receives an application from a military spouse that is licensed in another state. The board will require the applicant to prove equivalency and at a minimum, provide a detailed content outline of the other state's exam that the applicant took. The Board may also accept the applicant's acknowledgement of the Hawaii laws and rules in lieu of being specifically tested on Hawaii's laws and rules.

Discussion then ensued to clarify information given to prospective applicants who are military spouses that they generally have two (2) options:

- A. Apply as a military spouse under HRS section 436B-14.7, and provide all the required documentation in order for the Board to make a decision on equivalency, as well as the spouse's military status; or

- B. Apply as a regular applicant and meet the regular licensing requirements under HRS chapter 439 and HAR chapter 16-78 (Beauty Culture), or HRS chapter 438 and HAR chapter 16-73 (Barbering), which may include taking the respective Hawaii licensing exam.

Discussion ensued on the possibility of adopting the national examination of the National-Interstate Council of State Boards of Cosmetology ("NIC") as the licensing examination for all license types under the Board's jurisdiction. Mr. Choi commented that he had supported to keep the current written examination as written and administered by Prometric; but, he has since changed his view and may be in favor of a national exam. Executive Officer Kai requested DAG Tam to review the Board's contract with Prometric; DAG Tam commented there may be a "termination for convenience clause" but the process still would require the issuance of a Request for Proposal. The consensus of the Board was to continue to consider the possibility of adopting the NIC written examinations as the licensing examinations for barbers, beauty operators, and beauty instructors and to add this topic to the Board's future meeting agendas.

The consensus of the Board was to open the meeting to Joannie Rossiter from Paul Mitchell The School LLC, also Government Relations Committee State Liaison for the American Association of Cosmetology Schools ("AACCS"), to discuss the state oversight of postsecondary institutions that offer programs in cosmetology in order for those institutions to participate in Title IV Federal Student Aid programs. Ms. Rossiter offered her services to help the Board in drafting another letter to the U.S. Department of Education ("US DOE"). Executive Officer Kai reiterated that the Board sent a letter dated August 14, 2013 to the U.S. Department of Education ("US DOE") relating to the State authorization of licensed beauty schools, and subsequently received an email dated February 5, 2014 from Dr. Sophia McArdle of the US DOE, Office of Postsecondary Education Policy, Planning, and Innovation, stating that based on the Board's letter, "it does not appear that Hawaii's statute and regulations differentiate between the approvals provided to secondary and postsecondary institutions". Furthermore, Dr. McArdle believes that it is unclear that the public would be able to distinguish between cosmetology institutions offering secondary vs. beyond secondary education. In addition, it is not clear exactly what

comprises the complaint process and how a student would access the process. The conclusion of the US DOE is that they "do not agree that Hawaii's approval process under the Board of Barbering and Cosmetology of the State Department of Commerce and Consumer Affairs is compliant with the State authorization regulations".

Discussion ensued on whether the Board had the authority to mandate that beauty schools could enroll only students with high school education or its equivalent, without changing our current laws and rules. Further discussion ensued on HAR section 16-78-59(b), which requires students to be at least sixteen years of age and have an education equivalent to the completion of high school.

Ms. Rossiter invited the Executive Officer and DAG Tam, to participate in a conference call with herself and others at AACCS who may be able provide guidance in drafting a response to the US DOE.

It was noted it could be inferred from HAR section 16-78-59 that beauty schools licensed by the Board are post-secondary schools, and that a more comprehensive narrative on the procedures of the Regulated Industries Complaints Office to receive and investigate complaints will be drafted. Ms. Rossiter was thanked by the Board for attending today's meeting and for offering her services.

At 10:15 a.m., Chairperson Marugame recessed the meeting to discuss and deliberate on the following adjudicatory matter pursuant to Chapter 91, HRS:

Chapter 91,
HRS Adjudicatory
Adjudicatory
Matters:

- A. In the Matter of the Beauty Shop License of COLOR NAIL SALON & SPA, LLC, and the Beauty Operator's License of MINHKHANGOC IKEDA; BAR 2013-56-L, BAR 2013-58-L

DAG Tam provided a summary of the Settlement Agreement:

- November 2013, Respondent allowed two (2) individuals who were not licensed as beauty operators, apprentices, or temporary permittees to perform cosmetology services for compensation;

- Violation of HRS section 439-19(a)(3) – Permitting an unlicensed person to perform activities which require a license.

Terms of Settlement Agreement:

- \$3000 administrative fine (\$1500 each case) – to be paid in increments of no less than \$500 per month. Initial \$500 paid to RICO.
- Failure to fully and timely comply with terms of the Settlement Agreement will result in the automatic revocation of Respondent's license.

After discussion, it was moved by Ms. Howard, seconded by Mr. Quintana, and unanimously carried to approve the Settlement Agreement, and to reconvene the meeting.

At 10:18 a.m., it was moved by Ms. Howard, seconded by Mr. Choi, and unanimously carried 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 10:45 a.m., it was moved by Mr. Quintana, seconded by Ms. Howard, 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 Mr. Quintana, and unanimously carried to ratify the list of issued licenses attached (see, attached list).

B. Examination and License

- (1) GARINGO, Karen P. (Beauty Apprentice Registration)

After discussion, it was moved by Ms. Howard, seconded by Mr. Choi, and unanimously carried to approve the beauty apprentice registration of Karen P. Garingo.

- (2) MADALI, Amber (Barber)

After discussion, it was moved by Ms. Howard, seconded by Mr. Choi, and unanimously carried to approve the barber application for examination and license of Amber Madali.

- (3) MERRITT, Cristina F. (Cosmetologist)

After discussion, it was moved by Ms. Howard, seconded by Mr. Choi, and unanimously carried to approve the beauty operator application for examination and license of Cristina F. Merritt.

- (4) TRAPP, Gretchen E. (Esthetician)

After discussion, it was moved by Ms. Howard, seconded by Mr. Choi, and unanimously carried to approve the beauty operator application for examination and license of Gretchen E. Trapp.

- (5) YAMAMOTO, Mi Young (Nail Technician)

After discussion, it was moved by Ms. Howard, seconded by Mr. Choi, and unanimously carried to approve the beauty operator application for examination and license of Mi Young Yamamoto.

D. Beauty Shop/Barber Shop License

- (1) Advanced Medi-Spa LLC (New Beauty Shop)

- (2) AQUA HAWAII, INC. (New Beauty Shop)

- (3) Couture Nails & Spa LLC (New Beauty Shop)

- (4) Debina, Corinna Patricia dba Skin Care Heaven
(Beauty Shop Relocation)
- (5) Gaviao, Tangela L. (New Beauty Shop – 1st Floor Salon)
- (6) Gaviao, Tangela L. (New Beauty Shop – 3rd Floor Salon)
- (7) Gibo & Gibo Hair Corp. dba Colorcuts Salon
(Beauty Shop Relocation)
- (8) Hawaiian Rainforest LLC (New Beauty Shop)
- (9) Jeffie Harris LLC dba Vanity Salon
(Beauty Shop Relocation)
- (10) Kukua-Jose, Cherise L. (Beauty Shop Relocation)
- (11) Marukosou Corporation dba Salon Glitter
(New Beauty Shop)
- (12) Mermade Spa LLC (New Beauty Shop)
- (13) PALMS BEAUTY SPA, LLC dba PARADISE WAXING SPA
(Beauty Shop Relocation)
- (14) Mulligan, Juliette, Marie dba Salon Juliette Maui Inc.
(New Beauty Shop)
- (15) Supercuts Corporate Shops, Inc. dba Supercuts
(New Barber Shop)
- (16) 2L2TF, LLC (New Beauty Shop)
- (17) Way to Glow Limited Liability Company
(New Beauty Shop)
- (18) Yi, Yong R. dba Forever Young Skin and Nails
(Beauty Shop Relocation)

The eighteen (18) applications were preliminarily reviewed by staff, the Executive Officer, and Ms. Howard (who did not review application #1), the designated Board member to

review the new and relocation beauty shop and barber shop applications for consideration for this Board meeting.

Ms. Howard stated that she reviewed applications #2 to #18 and they meet the new requirements for beauty shop and barber shop licenses, and recommended approval.

After discussion, it was moved by Ms. Howard, seconded by Mr. Choi, and unanimously carried to approve barber/beauty shop applications #2 to #18, as listed above.

Discussion ensued on application #1, Advanced Medi-Spa LLC. It was then moved by Ms. Howard, seconded by Mr. Choi, and unanimously carried to deny the application for a new beauty shop license for Advanced Medi-Spa LLC.

E. Restoration of Licenses

(1) CONRAD, Valerie D. (BEO-17885)

After discussion, it was moved by Ms. Howard, seconded by Mr. Choi, and unanimously carried to approve the restoration of the beauty operator's license of Valerie D. Conrad.

(2) DUGAN, Caitlin M. (BEO-17507)

After discussion, it was moved by Ms. Howard, seconded by Mr. Choi, and unanimously carried to approve the restoration of the beauty operator's license of Caitlin M. Dugan.

(3) FINCH, Jennifer (BEO-15318)

After discussion, it was moved by Ms. Howard, seconded by Mr. Choi, and unanimously carried to approve the restoration of the beauty operator's license of Jennifer Finch.

(4) LOWELL, Shelley (BEO-8851)

After discussion, it was moved by Ms. Howard, seconded by Mr. Choi, and unanimously carried to approve the restoration of the beauty operator's license of Shelley Lowell.

(5) MARIANI, Jessica R. (BEO-13923)

After discussion, it was moved by Ms. Howard, seconded by Mr. Choi, and unanimously carried to approve the restoration of the beauty operator's license of Jessica R. Mariani.

(6) SONG, Sonya (BEO-9768)

After discussion, it was moved by Ms. Howard, seconded by Mr. Choi, and unanimously carried to approve the restoration of the beauty operator's license of Sonya Song.

Examinations: A. Barber Examinations Administered on March 4 – 7, 2014

Executive Officer Kai provided the following results of the barber examinations administered on March 4 - 7, 2014:

Total Exams Administered	44	
Exams Passed 1 st Time	14	(35% pass rate)
Total Exams Passed	21	(47% pass rate)
Total Exams Failed	23	(53% failure rate)
16 candidates used interpreters	13 passed:	
	10 passed 1 st time;	
	3 failed.	

Scope of Practice: A. Use of Light and Heat ("LHE") Devices

It was moved by Mr. Choi, seconded by Mr. Quintana, and unanimously carried to defer this agenda item to the Board's next meeting.

B. Chemical Peels

It was moved by Mr. Choi, seconded by Mr. Quintana, and unanimously carried to defer this agenda item to 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.

B. Report from the Investigative Committee on Amendments to HAR Chapter 16-78 (Cosmetology)

No report.

Open Forum:

Chairperson Marugame informed the Board that he inquired with the Office of the Governor, Boards and Commissions manager Jayson Muraki about the vacant Cosmetologist position on the Board, and was informed that their office is aware of the vacancy and will pursue to fill that seat at the next Legislative session.

Executive Officer Kai commented that due to a conflict in schedule, she had requested the Board change the June 9, 2014 meeting and had requested for the Board to check on their availability to a meeting on June 25 or June 26. After discussion, the consensus of the Board was to reschedule the June 9, 2014 meeting to June 25, 2014. Mr. Choi informed the Board that his inability to attend the June 9, 2014 meeting also extended to the June 25, 2014 meeting as well, due to a conflict in schedule. Chairperson Marugame stated that he may be unable to attend, and noted that should that occur, a Chair Pro Tem should convene the meeting.

Executive Officer Kai informed the Board that the National Association of Barber Boards of America's annual conference will be held on September 13-18, 2014 in Las Vegas, Nevada.

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Next Board Meeting: Wednesday, June 25, 2014
9:00 p.m.
Queen Liliuokalani Conference 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 11:00 a.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

06/13/14

[X] Minutes approved as is.

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

LTYPE	LIC NUM	BP NAME PART 1
BEO	19761	JENNIFER M <DORESTE-LOCK<
BEO	19846	SHILOH H <JOYCE<
BEO	20022	KYUNG MI <YI<
BEO	20023	KEVIN I <KALAUKOA<
BEO	20024	ELENA <ANDRIE<
BEO	20025	ELIZABETH K <CHASE<
BEO	20026	TIFFANY A <KAEO<
BEO	20027	ELIZABETH C <WILLIAM<
BEO	20028	STEPHANIE M <PLOTT<
BEO	20029	SANOE N C <SAKATA<
BEO	20030	LAUREN J <SYKES<
BEO	20031	ALEXANDRA M <ROA<
BEO	20032	MAKOTO H <SENO<
BEO	20033	HALEY K <HUGHLETT<
BEO	20034	HAILEY A <WILES<
BEO	20035	JENNIE R <CABERTO<
BEO	20036	HELENE J <PATRICK<
BEO	20037	TERI K <ZAMBO<
BEO	20038	EDEL L R <BOLOSAN<
BEO	20039	SHANA M <KANAHELE<
BEO	20040	VICTORIA N <FARRIOR<
BEO	20041	MELE N <BINTLIFF<
BEO	20042	STORMY K <CHRISTENSEN<
BEO	20043	CYNTHIA <CHEA<
BEO	20044	SABRINA K <MURPHY<
BEO	20045	COLENE E <METZKER<
BEO	20046	DESIREE K <DAUGHTRY<

LTYPE	LIC NUM	BP NAME PART 1
BAR	3499	LARRY M <BONES<
BAR	3500	STEFFINE E <FERRARA<
BAR	3501	MELISSA T <LE<
BAR	3502	TUYET T <NGO<
BAR	3503	MING LIANG <WANG<
BAR	3504	HUE LAN <KHUU<
BAR	3505	LUC <TRAN<
BAR	3506	DIEM CHAU T <DANG<
BAR	3507	HONG THI-ANH <NGUYEN<
BAR	3508	HOAN BICH <TRAN<
BAR	3509	ALAN I <FERNANDEZ-IRVINE<
BAR	3510	THU NGUYEN <ENGLISH<
BAR	3511	EUN YOUNG <KWAK<
BAR	3512	EDWARD L <ROBINSON<
BAR	3513	PENPILAI <SINGLOW<
BAR	3514	CIARA K <YOUNG-BAILEY<
BAR	3515	DUONG VAN <HA<