



**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
STATE BOARD OF COSMETOLOGY AND BARBER EXAMINERS
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TN 37243
615-741-2515**

MINUTES

The State Board of Cosmetology and Barber Examiners held a meeting June 5, 2017 at 10:00 a.m. in Nashville, Tennessee.

The Meeting was called to order by Chairman Ron Gillihan.

Ron Gillihan, Board Chairman welcomed everyone to the Board meeting.

Roxana Gumucio, Executive Director, called roll. The following members were present: Anita Charlton (teleconference), Frank Gambuzza, Ron Gillihan, Brenda Graham, Yvette Granger, Judy McAllister, Patricia Richmond and Amy Tanksley. Not in attendance Kelly Barger, Nina Coppinger and Mona Sappenfield.

Others present were: Roxana Gumucio, Executive Director, Cherrelle Hooper, Attorney for the Board, and Betty Demonbreun, Administrative Assistant.

New board member Jimmy Boyd was introduced to the board and welcomed.

MINUTES-

Minutes for the May 8, 2017 board meetings were submitted for changes and/or approval.

Motion made by Patricia Richmond and seconded by Frank Gambuzza to approve the May 8, 2017 minutes. Motion carried unanimously.

APPEAR BEFORE THE BOARD-

2017 Legislative Updates:

The 2017 legislative Public Chapters were reviewed by Cherrelle Hooper, attorney for the board.

Supernova Beauty and Wellness, Ins., New Specialty School:

Ms. Audra Clark appeared before the board to present a new aesthetics specialty school located in Bartlett, Tennessee. Ms. Clark completed the application, submitted the floor plan, five student contracts, curriculum information and all other required documents. She answered questions and explained that she is ready for inspection.

MOTION made by Patricia Richmond and seconded by Judy McAllister to approve the new school license. Motion carried unanimously.

The Hair Academy LLC, Name Change:

Fayetteville College of Cosmetology, located in Fayetteville, Tennessee was presented and approved by the board at the April 3, 2017 board meeting. The school is now requesting a name change from Fayetteville College of Cosmetology to The Hair Academy LLC. The school has been inspected but the license is held until the name change can be finalized.

MOTION made by Amy Tanksley and seconded by Yvette Granger to approve change in school name. Motion carried unanimously.

Shear Perfection Academy, New Instructor Curriculum:

Mr. Elvin Mejia appeared before the board with Ms. Ciara Gordon. Shear Perfection Academy is adopting ExpertEase's instructor curriculum for their instructor training program. Mr. Mejia explained how the partnership would work. Ms. Gordon answered the board's questions and showed the online system that will be used to complete the 300 hours of instructor curriculum.

MOTION made by Amy Tanksley and seconded by Frank Gambuzza to approve new online instructor curriculum. Motion carried unanimously.

APPLICATIONS FOR EXAMINATION-

Applications for examination for: Shakara Dickens, Shannel May and Alicia Williams. The applicants have felonies within the last three years or are currently incarcerated; the request to take the Tennessee examination is submitted for the board's approval. The required information, disclosure from the student and letter of recommendation are submitted. The Board approved Agreed Orders for a probation period of two years as prepared by legal counsel. In this case all three applicants are incarcerated and have already passed their exams.

Motion made by Patricia Richmond and seconded by Judy McAllister to approve application for examination with a signed Agreed Order. Motion carried unanimously.

Application to test as a cosmetologist with hours from Mexico for Adrian Serna Rios. Mr. Rios provided translated certificates of completion showing 2,740 hours between 1989 and 1992. All the documents were certified and Mr. Rios stated that he has been working in the industry for over 28 years.

Motion made by Amy Tanksley and seconded by Judy McAllister to approve request to take the Tennessee exams. Motion carried unanimously.

MISCELLANEOUS REQUESTS –

Request for Waivers, Reconsiderations and Extensions:

Request for cosmetology license for Melinda Macy. Pursuant to 0440-01-.10, an applicant must pay and request their original license within six months of having passed the practical exam. Ms. Macy provided written explanations of many reasons why she has not obtained her license since having passed the practical on July 25, 2015. The board has given the Executive Director permission to approve extensions as long as they are within a year or so after passing the practical exam.

MOTION made by Patricia Richmond and seconded by Yvette Granger to deny request. Motion carried unanimously.

Request for cosmetology license for Charlie McKemy. Pursuant to 0440-01-.10, an applicant must pay and request their original license within six months of having passed the practical exam. Ms. McKemy provided a written explanation, a doctor's note stating she assists in caring for her father as well as information about her current pregnancy. She passed her practical on August 4, 2016. The board has given the Executive Director permission to approve extensions as long as they are within a year or so after passing the practical exam. The information received and the reason for the delay have varied and changed therefore the request is presented to the board.

MOTION made by Amy Tanksley and seconded by Judy McAllister to approve request. Motion carried unanimously.

Effective June 7, 2017, the curriculum is amended under Rule 0440-01-.03(5) to replace language about registration for what we refer to as crossover between disciplines. This means

that a licensed cosmetologist who wants to obtain a master barber license, and the other way around, a licensed master barber who wants to obtain a cosmetology license can now complete only 300 educational hours instead of 750. After completion of such hours the applicant would have to pass both exams. The new rule also says that the applicant may show proof of five continuous years in Tennessee or another jurisdiction. The board interprets this to mean experience in the other field so that the hours could be waived. With that in mind a waiver form has been created and the applicant must show “work experience”.

There is no July meeting so the applicants listed below, if approved by the board, will be submitted to test as soon as the rule goes into effect. Some changes to the waiver were suggested. Otherwise the process for presenting future applicants was finalized. Moving forward the Executive Director will use the waiver form, verify continuous licensure, upload applicants to test and keep a report of the new licenses issued for the next year.

Request made by Rebecca Russel for waiver of 300 hours and approval to test as master barber.

MOTION made by Yvette Granger and seconded by Amy Tanksley to approve testing because of relevant experience. Motion carried unanimously. Frank Gambuzza abstained for philosophical reasons.

Request made by Ronald Gillihan for waiver of 300 hours and approval to test as cosmetologist.

MOTION made by Patricia Richmond and seconded by Yvette Granger to approve testing because of relevant experience. Motion carried unanimously. Frank Gambuzza abstained for philosophical reasons.

Request made by Kimetha Goodwin for waiver of 300 hours and approval to test as cosmetologist.

MOTION made by Yvette Granger and seconded by Amy Tanksley to approve testing because of relevant experience. Motion carried unanimously. Frank Gambuzza abstained for philosophical reasons.

Request made by Kristy Hale for waiver of 300 hours and approval to test as master barber.

MOTION made by Yvette Granger and seconded by Amy Tanksley to approve testing because of relevant experience. Motion carried unanimously. Frank Gambuzza abstained for philosophical reasons.

APPLICATIONS FOR RECIPROCITY-

The Reciprocity Committee of the State Board of Cosmetology and Barber Examiners met at 8:40 AM on Monday, June 5th to review six (6) reciprocity applications and make recommendations to the Board.

Attending were Board members Ron Gillihan and Patricia Richmond and Judy McAllister . Also present were Roxana Gumucio, Executive Director, Glenn Kopchak, Administrative Director, Cherrelle Hooper, Attorney for the Board, and Betty Demonbreun, Administrative Assistant.

The applications reviewed consisted of the following:

Application for reciprocity of cosmetology license from Florida for Megan Kennedy. Certification shows initial licensure in January 2013 with 1,200 hours and no practical exam. Ms. Kennedy would be required to complete 300 additional hours and pass the exams to meet the minimum requirements in Tennessee. She provided tax records for 2013 through 2016 as well as a letter recapping her experience and other customer service related experience. She is short less than a year for the five years' work experience.

Recommendation - is that the applicant be approved to take the practical examination.

MOTION made by Patricia Richmond and seconded by Judy McAllister to approve recommendation. Motion carried unanimously.

Application for reciprocity of an aesthetician license from North Carolina for Lana Leck. Certification from New Mexico shows initial licensure in May 2001 and North Carolina in March 2014 with 600 hours. Ms. Leck does not have the last five years' experience required to waive the 150 pending hours. Her application includes her spouses Military Orders as well as her letter explaining that they have had to move because of his military service. She has extensive experience working in dermatology related jobs and as a licensed medical esthetician between 2004 and 2013. A letter from her employer was provided. All military applicants are moved as quickly as possible and special consideration can be made to their application.

Recommendation - is that the applicant be approved for reciprocity.

MOTION made by Judy McAllister and seconded by Patricia Richmond to approve recommendation. Motion carried unanimously.

Application for reciprocity of cosmetology license from Wisconsin for Nhan Hu Nguyen. Certification shows initial licensure in July 2014 by endorsement from Vietnam and no exam. Transcript provided shows 2,015 hours obtained between January 2011 and February 2012.

Recommendation - is that the applicant take the Tennessee exams.

MOTION made by Patricia Richmond and seconded by Judy McAllister to approve recommendation. Motion carried unanimously.

Application for reciprocity of cosmetology license from Texas for Jaime Valdes. Certification shows license issued by reciprocity from Illinois in February 2006. Texas has the same number of hours and both exams. The board office is unable to confirm licensure from Illinois and a note from Mr. Valdes states the school has closed but he has been in the industry more than 30 years. Mr. Valdes will try to obtain something in writing from Illinois explaining why they do not have record of his license.

Recommendation - is that the applicant present additional information from Illinois supporting prior licensure, or take the Tennessee exams.

MOTION made by Patricia Richmond and seconded by Judy McAllister to approve recommendation. Motion carried unanimously.

Application for reciprocity of manicurist license from Colorado for Victoria Weaver. Certification from Virginia shows initial licensure in December 2003. Ms. Weaver was licensed in Colorado by reciprocity in April 2013 and that is her active license. She completed 400 hours in Michigan but then moved to Virginia. She provided a letter regarding work experience in Virginia between 2007 and 2012. She also included a letter from her employer in Colorado stating work in the industry between 2014 and 2015. She did not work during 2013 as she explained because she was between moves.

Recommendation - is that the applicant be approved for reciprocity.

MOTION made by Judy McAllister and seconded by Patricia Richmond to approve recommendation. Motion carried unanimously.

Application for reciprocity of manicurist license from Indiana for Kyla Willis. Certification shows initial licensure in December 2011 by examination. Indiana requires 450 hours for a nail technician license. Ms. Willis provided a letter from her employer confirming work experience between 2011 and August 2015.

Recommendation - is that the applicant be approved for reciprocity.

MOTION made by Patricia Richmond and seconded by Judy McAllister to approve recommendation. Motion carried unanimously.

MOTION made by Patricia Richmond and seconded by Brenda Graham to approve all the decisions made by the reciprocity committee. Motion carried unanimously.

LEGAL REPORT- STAFF ATTORNEY

The Complaint Committee of the State Board of Cosmetology and Barber Examiners met at 9:15 AM on Monday, June 5th to review the allegations of **35** complaints and make recommendations to the Board.

NEW CASES

COSMETOLOGY

1. Case No.: COS-2017008771

<u>First License Obtained:</u>	11/18/2003
<u>License Expiration:</u>	02/28/2019
<u>Complaint history:</u>	None

Pursuant to inspection in February 2017, the shop was found to be operating with an expired license and found to have one violation of unsanitary foot bath. The license expired October 31, 2016 and was immediately renewed after the inspection.

Recommendation: Authorize formal hearing. Authorize settlement by consent order with \$100 civil penalty for expired license and letter of warning for sanitary violation.

Decision: Approved.

2. Case No.: COS-2017017911

<u>First License Obtained:</u>	02/11/2000
<u>License Expiration:</u>	02/28/2018
<u>Complaint history:</u>	None

This is a consumer complaint regarding eyelash tint that the consumer states was incorrectly applied. The Respondent provided voice mails from the Complainant and a written response

refuting the allegations. The Complainant states that some of the tint from the application “dripped” down onto the skin around her eyes. The Complainant provided photographs but same do not substantiate the claim. The Respondent provided proof that she offered to meet with the complainant to “look” at her eyes but the Complainant declined the request and proceeded to but rubbing alcohol and baking soda on her eyes while she was at the beach. The Respondent states that without having seen “whatever” the Complainant claims to have been wrong with the service that there is nothing else she can do other than offer a refund. The Respondent states that the Complainant had 5 opportunities to come in to her establishment and allow her to “look at” her eyes.

Recommendation: Closure

Decision: Approved.

3. Case No.: COS-2017019171

<u>First License Obtained:</u>	01/28/1999
<u>License Expiration:</u>	01/31/2019
<u>Complaint history:</u>	None

This is a consumer complaint alleging a “bad haircut” and a scratch on the top of the head. The Respondent states in response to the complaint that the haircut was approved by the grandmother, the mother was not present but is the one who filed the complaint. The Respondent states that she did not cause the scratch on the top of the child’s head.

Recommendation: Closure

Decision: Approved.

4. Case No.: COS-2017009251

<u>First License Obtained:</u>	10/21/1993
<u>License Expiration:</u>	01/31/2017
<u>Complaint history:</u>	2016019031, closed by an Agreed Citation and payment of \$100.00 civil penalty

Pursuant to inspection, the Respondent shop was operating with an expired license and the manager/owner’s license was expired. This is the second offense related to the owner’s expired license which expired in August 2015.

Recommendation: Authorize formal charges. Authorize settlement by consent order with \$600.00 civil penalty (\$500 individual expired license and \$100 for shop license expired) due to second offense for individual expired license. This is first offense for shop license expiration.

Decision: Approved.

5. Case No.: COS-2017015891

<u>First License Obtained:</u>	05/04/1994
<u>License Expiration:</u>	09/01/2017
<u>Complaint history:</u>	8124, Dismissed; 2009023791, closed w/no action

This is a student complaint alleging unsanitary conditions, theft, and fraud for sending the student to collections for failing to pay tuition. The school responded and provided 24 exhibits to document the allegations made by the student. In addition, the school has received routine inspections and has not been cited for unsanitary conditions in the past and has not had any other complaints for unsanitary conditions.

Recommendation: Closure.

Decision: Approved.

6. Case No.: COS-2017019351

<u>First License Obtained:</u>	06/14/1983
<u>License Expiration:</u>	09/30/2017
<u>Complaint history:</u>	2014012251, closed by Consent Order and payment of \$250.00 civil penalty

This is a consumer complaint alleging a “bad perm”. The Complainant did not provide any photographs. The Respondent filed a response and states that the “perm” was rolled as was discussed with the client. The Complainant also alleges receiving several “bad haircuts” from this Respondent. The Respondent states if the haircuts were “bad” why did the Complainant continue to return for additional services.

Recommendation: Closure

Decision: Approved.

7. Case No.: COS-2017010921

First License Obtained: 11/23/2011
License Expiration: 11/30/2017
Complaint history: None

Pursuant to inspection, the Respondent was found to be providing manicure services with an expired license. The license had been expired since November 30, 2015. The Respondent stated that she thought she has renewed her license. Shop was cited for expired license of individual and immediately paid the AC.

Recommendation: Authorize formal hearing. Authorize settlement by consent order with \$100 civil penalty.

Decision: Approved.

8. Case No.: COS-2017011531

First License Obtained: 01/13/2016
License Expiration: 09/01/2017
Complaint history: 2016064021, Closure. contract discloses overage rates; 2016048961, Closure. contract fully discloses overage rates. Records reflect student's low attendance records resulting in the overage hours and multiple attempts by the school to encourage the student to increase attendance, which would have resulted in a smaller overage.

This is a student complaint alleging a school wrongfully expelled a student for disciplinary reasons. Specifically the student was expelled for taking an unauthorized photograph with a cell phone of another student receiving a body treatment and proceeded to discriminate that photograph to other students. The student also alleges that there was no instructor present during one of her classes and that equipment is broken and that there are not enough supplies for the students. The student also alleges discrimination.

The school responded and provided documentation of all of the schools policies and procedures as well as proof to rebut the allegation that the instructor was in fact present on the day in question. The school provided documentation specifically related to this student and the specific policy which was violated regarding use of cell phones during class.

Recommendation: Closure.

Decision: Approved.

9. Case No.: BAR-2017014891
- First License Obtained:** 05/13/2016
License Expiration: 05/31/2018
Complaint history: None
10. Case No.: BAR-2017017291
- First License Obtained:** 02/11/2005
License Expiration: 02/28/2011
Complaint history: None
11. Case No.: BAR-2017017311
- First License Obtained:** N/A
License Expiration: N/A
Complaint history: None

Pursuant to inspection, the shop was found to be operating with one unlicensed individual who is also one of the owners the other owner's license was found to have been expired since 2011. The shop manager was not present during the time of the inspection.

Recommendation: Authorize settlement by consent order with \$2500.00 civil penalty (\$1000.00 for unlicensed activity and \$1000 for expired license outside the grace period and \$500 for no shop manager present). Authorize formal hearing. In addition, the owner whose license has been expired since 2011 must retest to obtain a new license.

Decision: Approved.

REPRESENTS

12. Case No.: L15-COS-RBS-2015004431
- First License Obtained:** N/A
License Expiration: N/A
Complaint history: None

The original complaint pursuant to inspection in February 2015 alleged this respondent was providing manicure services without a license. The original recommendation was \$1000 civil penalty and authorize formal hearing which was approved by the Board in June 2015.

Since that time, the matter has been sent to investigations to determine if service can be obtained on this Respondent. The investigation revealed that the Respondent no longer resides at the only address that we have for him and there is no forwarding address or other contact information for this Respondent.

Recommendation: Closure due to inability to locate.

Decision: Approved.

13. Case No.: COS-2016067421

<u>First License Obtained:</u>	01/24/2012
<u>License Expiration:</u>	12/31/2017
<u>Complaint history:</u>	None

This complaint was originally presented in January 2017, pursuant to inspection from November 2016, the Respondent was operating a shop with at least one unlicensed individual. Another individual, who at the time was performing a manicure, exited through the back door when inspector announced who he was but this person's identity is unknown. In addition, there was no shop manager present. The manager and owner are the same person. It was originally recommended that the Respondent pay a civil penalty of \$1500.00 which was approved by the board. (\$500 no shop manager present and \$1000 for unlicensed individual).

Updated Recommendation: Closure due to change of ownership as the original Respondent owner provided proof of change of ownership dated September 2016. Open new complaint against the new shop owner as this person was the owner at the time of the complaint.

Decision: Approved.

14. Case No.: BAR- 2016034501

<u>First License Obtained:</u>	05/27/2014
<u>License Expiration:</u>	05/31/2018
<u>Complaint history:</u>	None

This complaint was originally presented in October 2016, pursuant to an inspection June 2016, it was determined that the shop license had expired. The manager is not the owner. The manager stated he was out of town for two weeks due to a death and was unaware of the license being expired. He was the only one in the shop at the time of the inspection. The board originally authorized \$100 civil penalty against the shop.

Recommendation: Closure due to fact that the shop is closed and owner cannot be located.

Decision: Approved.

BARBER

15. Case No.: BAR-2017017601
First License Obtained: 09/14/2012
License Expiration: 08/31/2016
Complaint history: None

Upon routine inspection on March 15, 2017, two men were observed cutting clients' hair. One of the individuals turned out to be working without a license and no information was given as to his identity. The shop owner stated she did not get a renewal notice, as the shop license had expired on August 31, 2016.

Recommendation: Authorize case for formal charges. Authorize settlement for a total civil penalty of \$1,100; \$1,000 for one count of unlicensed activity and \$100 for expired shop license.

Decision: Approved.

16. Case No.: BAR-2017022971
First License Obtained: N/A
License Expiration: N/A
Complaint history: None

A complaint was filed by a consumer that claimed to work for the shop and alleged the shop does not have an exterior barber shop sign, no blood spill kit. The complainant stated she is not licensed and one of her coworkers is not licensed either. The complaint states the shop sells alcohol and weed to minors as well as stolen designer clothes, and that the building is a safety risk and not fit to be a barbershop.

Response: Upon investigation, the investigator visited the address listed for the shop; however, the address provided by the complainant is for a health food store. On April 7, 2017, the investigator helped open a shop by a similar name at a completely different address but that shop was closed during the investigator's visit.

Recommendation: Close.

Decision: Approved.

17. Case No.: BAR-2017020401

First License Obtained: 11/04/2010
License Expiration: 11/30/2016
Complaint history: None

Upon inspection on March 30, 2017, of the shop where this individual was working, it was discovered that this individual was providing services to a client while his license was expired and had been expired since November 30, 2016.

Recommendation: Authorize case for formal charges. Authorize settlement for a total civil penalty of \$100 for providing services while his license was expired.

Decision: Approved.

COSMETOLOGY

18. COS-2017006361

First License Obtained: 07/31/2015
License Expiration: 06/30/2017
Complaint history: 201601359, closed by an Agreed Citation and payment of \$100.00 civil penalty

This complaint was filed by a consumer who stated she went to the nail shop and the man that worked on her nails was unprofessional, did not open the implements which were observed by her to be unclean and had been used on other customers, cut her twice on the same nail and did not stop services when he cut her. After the pedicure, the man then used the same implements that he used on her pedicure for her manicure without sanitizing them. The Complainant submitted a photo of a nail cuticle that was cut very short and red. The Complainant implored that the Board investigate this shop so it will follow the Board's legal requirements. There was no response submitted to the complaint.

Unlicensed activity: Upon investigation, when the investigator entered the shop on May 2, 2017, the investigator observed a male and a female performing pedicures. The female and male left the shop when the investigator entered the shop, leaving a customer for another employee to finish the pedicure. No employee was wearing a nametag. The investigator asked a female performing a manicure who those people were and she stated she did not know their names. The female told the investigator that the owner was not present and there was not a manager. The female who finished the pedicure stated she did not know the man and woman who left suddenly.

Sterilization: The investigator saw nothing to confirm that sterilization was taking place at the work areas. The investigator asked this female about instrument sterilization and she told him the instruments are packaged in a paper bag after they were sterilized. However, the investigator did not see any type of wet sterilization at the pedicure work stations.

Licensure & inspection sheet: The board displaying licenses was arranged so that all the license expiration dates were covered by other license. The inspection sheet posted was dated September 17, 2013. The listed owner had a manicurist license with an expiration date of January 1, 2017. Also posted on the board was an expired Johnson City, Tennessee business tax license with an expiration date of May 15, 2016. A Washington County, Tennessee business tax license was posted, with an expiration date of May 15, 2016.

Manager present: After the investigator was in the shop for 50 minutes, a female entered and identified herself as the manager. She had a valid cosmetologist license posted. The investigator provided her a picture he had taken of the male and female he had observed working who left suddenly, and the manager stated that she did not know their names. Curiously, no one in the shop, not even the manager of the shop knew the male and female who were performing pedicures when the investigator arrived.

Violations:

- 2 unknown persons working on pedicures who left the shop immediately that are assumed to be unlicensed
- No manager and no owner were present for the first fifty minutes I was in the shop.
- Expired licenses were posted and covered by other licenses.
- An inspection sheet from September 2013 was on the board.
- Both City and County business licenses posted were expired.
- No sterilization product or process was observed at work stations

Recommendation: Authorize case for formal charges. Authorize settlement for a total civil penalty of \$2,600; \$2,000 for 2 counts of unlicensed activity, \$100 for expired shop license, & \$500 for no manager present. Letter of warning for the sanitary violations and inspection sheet not posted.

Decision: Approved.

19. **COS-2017003621**

First License Obtained:

03/19/2009

License Expiration:

02/28/2019

Complaint history:

2009023021, closed by Consent Order and payment of \$2000 civil penalty

The complaint was filed by a consumer who alleges the manicurist did her nails sloppily and incorrectly. The consumer had to point out cuticles that he had overlooked and he was unusually quick and indifferent. He also took tools out of his drawers that the consumer knew were used on other customers and not sterilized. In all the months that the consumer visited the shop, she only observed one woman open up a cellophane packet with sanitized utensils. The consumer implored the shop to be investigated, stating if the shop was investigated, the investigator would

find every station dusty and dirty. The consumer states she has developed a green fungus on her nail, has a hole in her nail, and may lose her nail.

Upon investigation on April 18, 2017, the Board investigator inspected the business and did not observe any activity that merited a violation. There were no issues with the foot baths and disposable liners were being used on every person. Upon entering the shop, the investigator observed a large container of tools that had been cleaned that were being put in sterile plastic sealed containers. Every person was wearing a nametag and the licenses were up to date. Licenses were posted with the inspection sheet and visible to the public. The owner stated that the manager had spoken to the complainant but could not find a record of the complainant ever receiving services at the shop.

Recommendation: Close.

Decision: Approved.

20. Case No.: COS-2017024831

<u>First License Obtained:</u>	02/10/2015
<u>License Expiration:</u>	02/28/2019
<u>Complaint history:</u>	None

A complaint was filed by a consumer who states the underage children of the shop's owner are giving pedicures, that her children go to school with the children and the 3 times that she has been to the shop the shop owner's children have been giving manicures and pedicures.

Response: The owner's son has been licensed as a manicurist in the state of Tennessee since February 13, 2017. Legal verified the license number provided by the Respondent which matched the name on the driver license she provided for her son. She further stated that the claim of children working illegally is false. Respondent adds the Complainant was mad about her wait time as she was made to wait 20 minutes because the shop was booked as it was a holiday weekend.

Complainant responded to the response stating she is pleased to see that the owner's son is properly licensed.

Recommendation: Close.

Decision: Approved.

21. Case No.: COS-2017022261

<u>First License Obtained:</u>	08/22/2013
<u>License Expiration:</u>	08/31/2017
<u>Complaint history:</u>	2015010411, closed by Consent Order and

payment of \$500.00 penalty

The complaint was filed by a consumer who states she went to the nail salon to get a gel manicure. She did not want a drill used on the nail bed and asked if the gel could be scrubbed with the nail file and soaked off instead. According to the complainant, the manicurist insisted that the shop does follow the rule that states the customer has the right to refuse a drill. Complainant states she advised the owner she would be reporting the shop for not having a sign stating that the customer has the right to refuse a drill, the shop's refusal to use an alternative method to remove old gel polish, and the shop's insistence that there is no way to remove the gel polish without a drill. She stated the shop's response was to take pictures of her license plate and state that she would be sorry for calling the licensing board on them. The complainant's response was to ask police to come to the shop and verify she had done nothing wrong.

Response: The shop stated he explained to the complainant that he would not use the drill on her real nails or cuticle but she did not want it used and got upset. From the time the complainant came in to the time she left, another customer witnessed the exchange and told the owner to take a picture of her car tag since the owner had asked complainant for her name but she refused to tell him. After complainant saw him take the photos, she called the police. Customers can request an alternative to the drill and the nail technician can explain why the drill is a different way to remove polish. The shop never said there is no way to remove the gel polish without a drill. Drilling creates a faster process of removing gel polish and customers have not complained about drilling to remove gel. The customer who witnessed the incident can testify that the manicurist did not say anything to threaten the complainant. The shop denied saying that "she would be sorry."

Recommendation: Close with a letter of instruction regarding respectful treatment of customers.

Decision: Approved.

22. Case No.: COS-2017016831

<u>First License Obtained:</u>	07/26/2011
<u>License Expiration:</u>	06/30/2015
<u>Complaint history:</u>	None

Upon inspection on March 10, 2017, the inspector observed that the shop license was expired and had been since June 30, 2015, and the owner's individual cosmetology license was expired and had been expired since March 31, 2016. No clients were present at the time of the inspection.

Recommendation: Authorize case for formal charges. Authorize settlement for a civil penalty of \$100 for expired shop license.

Decision:

23. Case No.: COS-2017024671

First License Obtained: N/A
License Expiration: N/A
Complaint history: None

A complaint was filed by a consumer who states that Respondent is offering hair styling and coloring services without a license and offering lash extensions without a license. The complaint included a screenshot of Respondent posting the price for providing makeup, hair color, and hair styling. The post also states Respondent is in the process of learning eyelash extensions. The screenshots show that people chimed in on the post stating that if she is offering services like that she needs a license and that she cannot charge people if she is not licensed. Additional information supplied by the complainant shows Respondent's response to the feedback on her post, stating that she understands the makeup she was going to do would be illegal and that she would still do it if it is against the law and that she is doing makeup, not meth. The mail sent to Respondent was returned to the Department as undeliverable.

Recommendation: Letter of Warning, regarding the illegality of providing regulated cosmetology services without a license

Decision: Approved.

24. Case No.: COS-2017024891

First License Obtained: 11/04/2004
License Expiration: 10/31/2018
Complaint history: None

Upon routine inspection on April 19, 2017, the inspector observed the owner performing services and noticed the shop license was expired and had been since October 31, 2016.

Recommendation: Authorize case for formal charges. Authorize settlement for a civil penalty of \$100 for providing services while the shop license was expired.

Decision: Approved.

25. Case No.: COS-2017024951

First License Obtained: 10/16/2008
License Expiration: 03/31/2018
Complaint history: None

A complaint was filed by a consumer that states a lady is running a nail salon in her house and it has a smell. The complaint states the salon has tables and chairs set up for customers to get their nails done, the owner tells customers she can only receive cash, and does not pay taxes.

Response: The accusations are false and were made by my sister-in-law. The shop accepts cash and checks; attached with the complaint are copies of checks and a tax return. The shop had an inspection on February 19, 2016, and is licensed.

Recommendation: Close.

Decision: Approved.

26. Case No.: COS-2017018421

<u>First License Obtained:</u>	07/22/2005
<u>License Expiration:</u>	07/31/2011
<u>Complaint history:</u>	None

Upon inspection on March 17, 2017, clients were present and the inspector observed a female working on eyelashes who told the inspector she had a license to practice. The manager asked the female where her license was located, and she stated in her purse, and handed the inspector her driver license. The name on the driver license matched a cosmetology license that had expired on July 31, 2011.

Recommendation: Authorize case for formal charges. Authorize settlement for a civil penalty of \$1,000 for person without a valid license.

Decision: Approved.

27. Case No.: COS-201702601

<u>First License Obtained:</u>	12/20/1995
<u>License Expiration:</u>	12/31/2017
<u>Complaint history:</u>	None

A complaint was filed by a consumer who stated she went to Respondent to get her hair washed and styled. She states Respondent washed her hair extensions out by yanking and pulling them. After Respondent worked on her hair, complainant noticed her hair was gone on her right temple. When she told Respondent, Respondent responded like she did not care.

Response: I have been doing complainant's hair for 2 years. When she came to me during the incident she described, her hair was in bad shape. I had helped her grow her hair back from the problem she had with her last stylist. I had told her that when she returned to me she needed a

relaxer so hair needed to be out, but she said had got in late and did not have time to take it out. She paid me to put her up and not to take it out. Respondent apologized and complainant accepted. Respondent offered her money back and free services to help grow her hair back. Respondent has never had a complaint in 20 years of being in business.

Complainant responded to the complaint that she accepts the apology, but that Respondent did not apologize at the shop and only apologized after complainant texted her.

Recommendation: Close.

Decision: Approved.

28. Case No.: COS-2017025271

<u>First License Obtained:</u>	N/A
<u>License Expiration:</u>	N/A
<u>Complaint history:</u>	None

A complaint was filed by a person who claims to be a former employee of the shop who was renting two chairs at the shop every week from June 2016 through March 2017. Complainant states that she went out of town March 5, and when she returned March 20, she discovered she was kicked out of her spot at the shop. She therefore wants to report the shop and named two employees who work there as being unlicensed.

Upon investigation, though the investigator visited the shop on two different occasions during business hours, the location was closed both visits so he was unable to confirm or deny the allegations.

Recommendation: Close with a Letter of Warning, as the allegations were not confirmed

Decision: Approved.

29. Case No.: COS-2017020991

<u>First License Obtained:</u>	10/28/2011
<u>License Expiration:</u>	09/01/2017
<u>Complaint history:</u>	None

A complaint was filed by a former student of the school who states she left the school because the owner would leave students at the school with no licensed instructors on multiple occasions. The school has since closed its doors and did not tell students and the student did not receive the hours she clocked and earned.

Response: the complainant withdrew from the school on March 9, 2017, and stated the reason for her withdrawal as being she had found a school closer to home. The school denies the

allegations, and says there is no truth to the allegations, that the owner would leave the students at the school with no licensed instructors. The one time she left the students was a day a bad storm hit Middle Tennessee with tornado warnings. The owner told the students that she had to go to the bank and it would take 20 minutes at most, and there were no clients present. She told them to lock the doors and not let anyone in until she returned. At the end of the day she had to go to the bank again and told the students to lock the doors again and left for 10 minutes. Further, on complainant's last day, she colored her mother's hair and was told that her hours would not be released until she paid the money she owed the school, but she wanted the owner to reduce the amount. Complainant's mother, after her services, complained about her daughter being charged for the hours, then tried to shut the door on the night students as they were trying to clock in. She called the owner a liar and shouted that she was going to call the news and the Board on her. When she left the school, those who witnessed the event stated the owner should have called the police, and she now, in hindsight, wishes she had. A week later the complainant apologized for how her mother acted and asked again if her fee could be reduced.

Recommendation: Close.

Decision: Approved.

30. Case No.: COS-2017025981

First License Obtained:

03/17/1994

License Expiration:

09/01/2017

Complaint history:

2003128391, dismissed; 2010004031, closed with no action; 2015019901, Issued a letter of warning for unprofessional conduct, and sent the student information about opening complaints with THEC and the school accrediting agency and sent an inspector the near future to review the school's student files

An anonymous complaint was filed by a student at the school who states the man in charge of the school is rude, sexually inappropriate with clients and students, a bully, and a racist. He had sexual conversations in front of the complainant's clients when the clients had their small children present for services which made complainant feel ashamed and embarrassed. His granddaughter is permitted to come to the school and she runs around barefoot, and nothing is done about her getting into everything. The complainant does not think the man has a license to cut hair, but does.

Another complaint was submitted that states a young child ran all over the school and spoke to people performing and receiving services with bad manners. The little girl would climb on chairs and was barefoot. The older man was rude, disrespectful to women, flirty, and made the complainant uncomfortable.

The school responded that the student did not follow school internal complaint procedures as the filing of the complaint is the first notice the school has received regarding to the allegations. The

school confirms it is changing ownership and is going through all state, accreditation and Department of Education requirements. The man referenced in the complaint is a personal advisor, helping oversee the transition, and is responsible for observing staff and student activities. The school states this individual has gone above and beyond to be friendly and helpful to students and in no way has he acted inappropriately

The school stated it would like to address a specific situation that occurred following a trip to a seminar in Florida where the individual named by complainant was talking about a Spanish restaurant he visited while on the trip, namely, the food and dancers, to the night instructor. There was a student work station 14 feet away from the desk, and at that time, the student accused him of saying derogatory statements about Mexicans, and the student made racial comments about Mexicans in front of children and other students. This version of the events would be corroborated by the night instructor and a client. The school admitted that the granddaughter visited the school, but was supervised by a parent.

The school stated the individual has previously been licensed as a cosmetologist and barber and is taking hours to retest.

The school submitted sworn affidavits from the night instructor and the client, in support of their position.

An investigation was conducted by the Board to investigate the claims of unlicensed activity, a young child running around the school, and conduct. The investigator could not substantiate any of the allegations in the complaint, as the investigator spoke with the individual named in the complaint and advised him he could not instruct students or demonstrate on customers until he was licensed. The records were inspected, and the individual has not signed any of the training records or made entries on student records. The facility was clean and there were 3 licensed instructors on the floor the entire time.

Recommendation: Close with a Letter of Warning.

Decision: Closure.

31. Case No.: COS-2017019491

<u>First License Obtained:</u>	N/A
<u>License Expiration:</u>	N/A
<u>Complaint history:</u>	None

Upon inspection of a licensed hair braiding shop owned by Respondent, it was discovered that the shop does not have a licensed manager. The owner and a female employee were performing services on clients. The owner stated she does not have a license. A female was performing services on a client, but is not licensed, either.

Recommendation: Authorize case for formal charges. Authorize settlement for a civil penalty of \$2,500 for two counts of unlicensed activity and one count of no licensed manager present.

Decision: Approved.

32. Case No.: COS-2017020441

First License Obtained: 04/07/2008
License Expiration: 04/30/2018
Complaint history: None

33. Case No.: COS-2017020421

First License Obtained: N/A
License Expiration: N/A
Complaint history: None

Upon inspection on March 30, 2017, it was discovered that the shop owner's individual license had been expired since April 30, 2016. The owner was performing a manicure at the time of the inspection. The shop does not have a valid shop license.

Recommendation: Authorize case for formal charges. Authorize settlement for a civil penalty of \$1,100 for expired personal license and operating a shop without a license.
Decision: Approved.

34. Case No.: COS-2017019961

First License Obtained: 03/10/2015
License Expiration: 02/28/2019
Complaint history: None

Upon inspection on March 29, 2017, it was discovered that a valid shop license was not displayed, as the posted shop license expired February 28, 2017, which is a responsibility of the manager. The owner/manager stated that she did not receive a renewal notice.

Recommendation: Authorize case for formal charges. Authorize settlement for a civil penalty of \$100 for expired shop license.
Decision: Approved.

35. Case No.: COS-2017028381

First License Obtained: N/A
License Expiration: N/A
Complaint history: None

The complaint was filed by a consumer who alleges the respondent is running a skin care spa out of her home but is not licensed.

Response: The Respondent is not yet licensed by the Board because still a student and does not do skin care services from home. The pictures she posts are of the services she provided at the school. Respondent plans to open a spray tan business out of her home, but a license is not required to provide spray tans in Tennessee. Respondent contacted city building and codes, paid the application fee, and anticipates receiving the city permit to run a business from her home on June 7, 2017.

Recommendation: Close.

Decision: Approved.

Attending were Board members Frank Gambuzza, Ron Gillihan and Amy Tanksley.

The meeting adjourned at 9:38 AM.

MOTION made by Amy Tanksley and seconded by Frank Gambuzza for approval of the Legal Report as amended. Motion carried unanimously.

MOTION made by Judy McAllister and seconded by Ron Gillihan for approval by the full board of the Legal Report as amended. Motion carried unanimously.

Directors Report: Cosmetology Consent Orders and Agreed Citations – April - Totaling \$21,713
Net surplus at the end of April \$126,639

NEW BUSINESS

A written process for the Examination and Application Requirements was first presented at the May 8, 2017 board meeting. One key change made to that proposal is regarding the three attempts to pass the exam. If the candidate can't pass after the third attempt the process included being blocked from testing for six months. The vision would be for the candidate to get a refresher course, review the book, get tutored, anything to assist in learning the theory (in most cases the harder test to pass) and/or practical. A decision needs to be made regarding blocking all applicants after the third attempt because the current system cannot just block reciprocity or international applicants when the board might be concerned about school hours. Many reports were provided with pass and fail rates from 2015 and 2016. Ms. Cherrelle Hooper answered all questions and explained the pros and cons to holding applicants back. This final product will move forward through the rule making process.

MOTION made by Frank Gambuzza and seconded by Amy Tanksley to approve examination and application process as amended. Motion carried unanimously.

The Office had to make the decision and licensed Premier Cosmetology Academy located in Jonson City. The school was approved by the board at the January 30, 2017 meeting but they were not ready to be inspected until April. The field inspector completed the inspection and gave them 100% on April 28th. We attempted to send a board member but schedules have been very hectic and no one was able to go. The school could not be held back from conducting business so the Director approved the license. The board needs to decide if a board member still should go and inspect, as previously requested or has everything been met and the board is comfortable with no board member inspection.

MOTION made by Frank Gambuzza and seconded by Judy McAllister to approve school license as it was released in May. Motion carried unanimously.

Additional Questions:

Motion to adjourn

MOTION to adjourn made by Judy McAllister and seconded by Yvette Granger. Motion carried unanimously.