



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 May 8, 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), Nina Coppinger, Bobby Finger, Frank Gambuzza, Ron Gillihan, Yvette Granger, Judy McAllister, Patricia Richmond, Mona Sappenfield and Amy Tanksley. Not in attendance Kelly Barger, Brenda Graham.

Others present were: Glenn Kopchak, Administrative Director, Cherrelle Hooper, Attorney for the Board, and Betty Demonbreun, Administrative Assistant.

MINUTES-

Minutes for the April 3, 2017 board meetings were submitted for changes and/or approval. The board agreed to stop physically signing meeting minutes. The approval at a board meeting and everyone's review of them is considered sufficient approval moving forward.

Motion made by Patricia Richmond and seconded by Judy McAllister to approve the March 6, 2017 minutes. Motion carried unanimously.

APPEAR BEFORE THE BOARD-

2017 Legislative Updates:

The 2017 legislative session introduced many bills that affect the State Board of Cosmetology and Barber Examiners. This is the final presentation for this legislative session. Some of these bills have already been signed as Public Chapters. Cherrelle Hooper, attorney for the board, explained all of the bills and answered questions.

APPLICATIONS FOR EXAMINATION-

Applications for examination for: Shaina Harvey, Misty Ellis, Betty Small-Vandolen and Musette Taylor. 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 were submitted. The Board approved Agreed Orders for a probation period of two years as prepared by legal counsel.

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

Application to test as a master barber with hours from Iraq for Sakvan Abdullah. Mr. Abdullah provided translated certificate of completion showing 1,500 hours were completed in September 2010.

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

Application to test as a master barber with hours from Jordan for Farhan Alfukaha. Mr. Alfukaha provide translated certificate of completion showing 2,500 hours were completed in September 2013.

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

Application to test as a cosmetologist with hours from India for Seema Boghani. Ms. Boghani provided a translated certificate of completion showing 2,010 hours were completed in March 2004.

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

Application to test as a manicurist with hours from Vietnam for Thanh Huynh. Mr. Huynh provided a translated certificate showing he completed 450 hours in November 2016. Tennessee requires 600 hours for manicuring. Mr. Huynh still needs to complete 150 additional hours before he can test.

Motion made by Amy Tanksley and seconded by Nina Coppinger to deny request to take the Tennessee exams until all hours are complete. Motion carried unanimously.

Application to test as a manicurist with hours from Vietnam for Hue Nguyen. Ms. Nguyen provided a translated certificate showing she completed 600 hours in March 2016. She held a manicurist license in Tennessee between 2012 and April 2013 which was suspended until she could provide proof that she met the requirements.

Motion made by Judy McAllister and seconded by Patricia Richmond to approve request to take the Tennessee exams until all hours are complete. Motion carried unanimously.

Application to test as an aesthetician with hours from India for Meghaben Patel. Ms. Patel provide translated certificate of completion showing 3,360 hours completed in 2011. The Kadambari Beauty Parlour provided a training document showing training in advanced aesthetics.

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

Application to test as a master barber with hours from the Dominican Republic for Francisco Reyes. Mr. Reyes provided translated certificate of completion showing 1,500 hours were completed in May 2013.

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

Application to test as a manicurist with hours from Vietnam for Giang Truong Tran. Mr. Tran provided a translated certificate showing he completed 800 hours in January 2017.

Motion made by Judy McAllister and seconded by Amy Tanksley to approve request to take the Tennessee exams until all hours are complete. Motion carried unanimously.

MISCELLANEOUS REQUESTS –

Request for Waivers, Reconsiderations and Extensions:

Request for approval of a teacher training program pursuant to Rule 0440-01-.11. Ms. Duriya Caldwell appeared before the board to explain her material and desire to provide manicuring teacher training.

Motion made by Patricia Richmond and seconded by Judy McAllister to approve the 2017 session and requested dates pursuant submission of teaching methodology and review by Executive Director. Motion carried unanimously.

Request from instructor Anya Davis for an extension of the required continuing education hours. Ms. Davis is timely in her request pursuant to Tenn. Code Ann. § 62-4-114(a) (2) where an instructor may request this waiver one time when all other requirements have been met. Ms. was

in an automobile accident and because of financial issues due to the accident she would like an extension past the May 2017 renewal requirement of her license.

MOTION made by Amy Tanksley and seconded by Frank Gambuzza to approve request. Motion carried unanimously.

Request for manicurist license for Dao Nguyen. Ms. Nguyen passed her practical exam in March 2017. She previously held a license which was revoked in November 2016 because she did not obtain her education as required by Texas law. She then completed hours in Tennessee in March 2017 through the apprentice program and is now requesting her license. Ms. Nguyen, like many other applicants, has answered the attestation question about having had a previous license in Tennessee incorrectly.

The Board discussed how to best point out the importance of false responses taking into account that there could be a language barrier or sometimes applicants do not read the questions carefully. The board office and legal counsel will add language to the PSI page emphasizing the importance of each response and consequences to false or incorrect information.

MOTION made by Mona Sappenfield and seconded by Judy McAllister to approve request. Motion carried unanimously.

Request for manicurist license for Bich Tran. Ms. Tran passed her practical exam in March 2017. She previously held a license which was revoked in October 2016 because she did not obtain her education as required by Texas law. She then completed hours in Tennessee in March 2017 through the apprentice program and is now requesting her license. Ms. Nguyen, like many other applicants, has answered the attestation question about having had a previous license in Tennessee incorrectly.

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

Request for master barber license for Brian Rashad Smith. Mr. Smith passed his practical exam in October 2016. He previously held a license which was revoked in April 2014 because he did not meet the requirements in Tennessee to obtain a license. He then completed hours in Tennessee in January 2016 and is now requesting his license. Mr. Smith, like many other applicants, has answered the attestation question about having had a previous license in Tennessee incorrectly.

MOTION made by Judy McAllister and seconded by Mona Sappenfield to approve request. Motion carried unanimously.

APPLICATIONS FOR RECIPROCITY-

The Reciprocity Committee of the State Board of Cosmetology and Barber Examiners met at 8:30 AM on Monday, May 8th to review twelve (12) reciprocity applications and make recommendations to the Board.

Attending were Board members Nina Coppinger, Ron Gillihan and Patricia Richmond. 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 manicurist license from New Jersey for Bonnie Saul. Certification shows and upgraded cosmetology license issued initially in 1990 as manicurist license with 200 hours by examination. Ms. Saul provided a written explanation about her work experience for the last 29 years doing nails. Although she has a cosmetology license, she is only interested in getting a manicure license.

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 master barber license from New York for Franco Benito. Certification shows apprentice barber with initial licensure in April 2016. The specific number of hours is not provided and it can vary by school. Mr. Benito provided a letter from the shop he worked at. They are attesting to his work for seven months or the equivalent of 1,500 hours.

Recommendation - is that the applicant take the Tennessee exams.

MOTION made by Patricia Richmond and seconded by Ron Gillihan to approve recommendation. Motion carried unanimously.

Application for reciprocity of aesthetician license from California for Sara Vaughn. Certification shows initial licensure in March 2004 with only 600 hours required in California and both exams passed. Ms. Vaughn provided tax records starting with 2012 through W-2 from 2016. The work experience is all in the entertainment enterprises which is consistent with makeup and other aesthetics services.

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 Mississippi for Edmond Lee Stamps. Certification shows license issued in March 2016 with hours not provided. Correspondence with that State details regarding his hours or why he was licensed through reciprocity. At this time we have no other State licenses nor has Mr. Stamps listed others on his application.

Recommendation - is that the applicant take the Tennessee exams.

MOTION made by Ron Gillihan and seconded by Patricia Richmond to deny recommendation, pending more information from applicant. Motion carried unanimously.

Application for reciprocity of cosmetology license from Georgia for Xuan Nguyen. Certification shows license issued in November 2016 by reciprocity. Ms. Nguyen was also licensed in Virginia in 2004 however her application says she completed school in Georgia. She was presented to the board at the June 2016 meeting and the decision was that she take the Tennessee examination.

Recommendation - is that the applicant take the Tennessee exams.

MOTION made by Judy McAllister and seconded by Ron Gillihan to approve recommendation. Motion carried unanimously.

Application for reciprocity of manicurist license from Florida for Chin Le. Certification shows initial licensure in 2015 because Mr. Le allowed his original license to become delinquent and expire. Although his application says he obtained 600 hours in Florida they only complete with 240 hours and no examination. In 2015 Mr. Le was licensed in Oklahoma by reciprocity from Florida and no examination. Correspondence with him contradicts what the State boards have provided and, based on the social security number, he was previously licensed in Tennessee. That license was revoked in 2012.

Recommendation - is that the applicant be denied.

MOTION made by Ron Gillihan and seconded by Judy McAllister to approve recommendation. Motion carried unanimously.

Application for reciprocity of cosmetology license from Ohio for Annie Ruth Hopkins. Certification shows initial licensure in January 1980 by reciprocity from Tennessee. Ms. Hopkins obtained her cosmetology/aesthetician license in Tennessee in 1970 and held it until 1997. The

problem is her license in Ohio is no longer active and she would need to take continuing education credits to get back to active.

Recommendation - is that the applicant take the Tennessee reinstatement exams.

MOTION made by Patricia Richmond and seconded by Ron Gillihan to approve recommendation. Motion carried unanimously.

Application for reciprocity of cosmetologist license from Florida for Mary Gale Davis Certification shows initial licensure in 1982 with 1200 hours with both exams. For her proof of experience, she provided 2009 tax records and an explanation that she was on social security benefits thru 2012. No other proof of experience was given.

Recommendation - is that the applicant take the Tennessee exams.

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

Application for reciprocity of cosmetologist license from New Jersey for Michael Burdick. Certification shows initial licensure in 1902 which has to be an error. Mr. Burdick stated that he completed school in 1974 with 1,200 hours and both exams. His New Jersey license is active. He also provided proof of work in the industry for 1984 – 2012 as a salon owner and tax records for 2013.

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.

Application for reciprocity of cosmetologist license from New York for Kara Moore. Certification shows initial licensure in June 2012 with 1,000 hours by examination. Ms. Moore is also licensed in Arizona by reciprocity since 2015. She has not quite completed the five years of required work experience for the Director to approve her. She provided tax records from 2012 through November 2016.

Recommendation - is that the applicant be approved for reciprocity.

MOTION made by Judy McAllister and seconded by Ron Gillihan to approve recommendation. Motion carried unanimously.

Application for reciprocity of cosmetologist license from Florida for Rachel Lynn Smith. Certification shows initial licensure in November 2007 with 1,200 hours and no practical exam. Ms. Smith provided tax records from 2010 – 2015, but not all of them show she was working in the industry.

Recommendation - is that the applicant take the practical exam.

MOTION made by Patricia Richmond and seconded by Ron Gillihan to approve recommendation. Motion carried unanimously.

Application for reciprocity of natural hair styling license with hours from Guinea for Mariam Cire Sow. Diploma shows that between 1997 and 2001 she completed education in hair braiding. She states on the application that she did 450 hours.

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.

MOTION made by Ron Gillihan and seconded by Patricia Richmond to approve full reciprocity report. 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, May 8th to review the allegations of **46** complaints and make recommendations to the Board.

Attending were Board members Frank Gambuzza, Bobby Finger and Amy Tanksley.

The meeting adjourned at 9:30 AM.

MOTION made by Patricia Richmond and seconded by Nina Coppinger for approval by the full board of the Legal Report as amended. Motion carried unanimously.

COSMETOLOGY

1. Case No.: COS-2016074121

First License Obtained: N/A

License Expiration: N/A
Complaint history: None

Pursuant to an anonymous complaint, the Respondent was allegedly performing hair and makeup services without a license. In response to the complaint the Respondent retained counsel and provided a response which states that the Respondent only provides hair and makeup services for weddings and photo shoots. The Respondent also refers to an email from a former employee of the board office which stated that persons providing services to wedding parties, department stores and on sets of photo shoots are exempt from licensure.

Recommendation: Closure with letter of instruction.

Decision: Approved.

2. Case No.: COS-2016074141

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

Pursuant to an anonymous complaint, the Respondent was allegedly performing hair and makeup services without a license. In response to the complaint the Respondent retained counsel and provided a response which states that the Respondent is only a booking agent and does not provide services.

Recommendation: Closure.

Decision: Approved.

3. Case No.: COS-2016074181

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

Pursuant to an anonymous complaint, the Respondent was allegedly performing hair and makeup services without a license. In response to the complaint the Respondent retained counsel and provided a response which states that the Respondent only provides hair and makeup services for the music and entertainment industry. The Respondent also refers to an email from a former employee of the board office which stated that persons providing services to wedding parties, department stores and on sets of photo shoots are exempt from licensure.

Recommendation: Closure with letter of instruction.

Decision: Approved.

4. Case No.: COS-2016074221

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

Pursuant to anonymous complaint, the Respondent who is pro se is alleged to have been performing services without a license. In response the Respondent states that she is a freelance artist working only on photo shoots and music videos. She further states that she received an email from a former employee of the board office which stated that persons providing services to wedding parties, department stores and on sets of photo shoots are exempt from licensure.

Recommendation: Closure with letter of instruction.

Decision: Approved.

5. Case No.: COS-2017016321

First License Obtained: N/A
License Expiration: N/A
Complaint history: 2014029221, closed as shop is no long in existence and the owner/respondent cannot be found for service

Pursuant to inspection, after an anonymous complaint was received regarding unlicensed activity the inspector confirmed that no one providing hair services, other than the shop owner, had a license. The shop owner and the manager are the same individual and the shop has no license.

Recommendation: Authorize settlement by consent order with civil penalty of \$2000 for the unlicensed activity. Authorize formal hearing.

Decision: Approved.

6. Case No.: COS-2016076741

7. Case No.: COS-2016076761

8. Case No.: COS-2017000931

9. Case No.: COS-2017000971

10. Case No.: COS-2017001011

11. Case No.: COS-2017001051

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

These six complaints are consumer complaints alleging unlicensed activity at a beauty supply store. Upon request, a field investigation discovered no unlicensed activity occurring in the store.

Recommendation: Closure.

Decision: Approved.

12. Case No.: COS-2017004611

<u>First License Obtained:</u>	04/27/2005
<u>License Expiration:</u>	10/31/2018
<u>Complaint history:</u>	None

This is an anonymous consumer complaint alleging unlicensed activity in the Respondent's home. However, the Respondent has a valid license and responded to the complaint stating that there is no business operating out of her home and that this Complainant is in the middle of a divorce with the Respondent's boyfriend. This complaint was sent out for follow up inspection and no unlicensed activity was found in the home.

Recommendation: Closure.

Decision: Approved.

13. Case No.: COS-2017003701

<u>First License Obtained:</u>	08/26/2016
<u>License Expiration:</u>	08/31/2018
<u>Complaint history:</u>	None

This is a consumer complaint alleging that the consumer contracted a staph infection from a razor used during a pedicure. Complainant has provided medical documentation of proof of an infection and pictures of swollen foot but physician did not specifically that infection was caused by razor used at salon.

Recommendation: Closure due to no complaint history and no proof of razor causing the infection.

Decision: Approved.

14. Case No.: COS-2016076561

<u>First License Obtained:</u>	04/21/2009
<u>License Expiration:</u>	10/31/2017

Complaint history: None

This is a consumer complaint alleging unlicensed activity of one individual whom the complainant alleges is performing esthetic services and permanent makeup. The complainant is a competitor and does not want to move forward with this complaint. The Respondent (shop) responded stating it is licensed with the Dept. of Health and this Board and that the unlicensed individual has been operating under the requirements as outlined for dermopigmentation through Dept. of Health.

Recommendation: Closure as this type of activity is regulated by the Dept. of Health.

Decision: Approved.

15. Case No.: COS-2017009171

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

This is a consumer complaint alleging unlicensed activity regarding make up services. The Respondent filed a response stating that no services were provided because the event was cancelled due to this complaint being filed. However, a review of the Facebook profile and posts indicates that the Respondent is providing make up services to consumers without a license but there is no proof she is charging a fee for said services.

Recommendation: Closure with letter of instruction.

Decision: Approved.

16. Case No.: COS-2017015821

First License Obtained: 04/07/2015
License Expiration: 02/28/2019
Complaint history: None

This is a consumer complaint alleging that the consumer developed an infection after receiving a pedicure. The Respondent provided a written response with photos of the establishment which indicate proper sanitation methods are being used and there is no proof that the infection was caused by the pedicure.

Recommendation: Closure.

Decision: Approved.

RESPRESENTS

- 17. Case No.: L15-COS-RBS- 2015017681
- 18. Case No.: L15-COS-RBS- 20150214161

First License Obtained: 08/13/2009
License Expiration: 12/31/2017
Complaint history: 2011023341, closed by Consent Order and payment of \$500 civil penalty

- 19. Case No.: L15-COS-RBS- 2015017691
- 20. Case No.: L15-COS-RBS- 20150214181

First License Obtained: 02/10/1992
License Expiration: 01/31/2017
Complaint history: None

This complaint was originally presented in November 2015 and at that time the Respondent had received two notices of violation for both his personal and shop license following two inspections. The violations were due to a change in location whereby the respondent changed suites within the same building but failed to notify the board. The board initially approved a civil penalty of \$1000.00 for all four cases.

Since that time, the Respondent has closed his shop and is no longer employed in the area of cosmetology. The Respondent has contacted me in good faith and paid \$500.00 in an effort to resolve the complaints. The Respondent is asking that the civil penalty be reduced and applied to his personal license for which he has signed a consent order and paid the penalty. The remaining penalty of \$500 would be attributed to the shop violations since the Respondent paid and signed the consent order related to his personal license, however, and the Respondent is asking for reconsideration of that penalty due to the fact that the shop is closed.

Recommendation: Closure of the shop complaints due to payment of the civil penalty in the amount of \$500.00 for the individual violations and due to the fact that the shop has closed.

Decision: Closure of the shop complaints with a Letter of Warning due to payment of the civil penalty in the amount of \$500.00 for the individual violations and due to the fact that the shop has closed.

- 21. Case No.: COS-2016025341

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

The shop and the manager were cited pursuant to an inspection in May 2016. At the time of inspection the shop was unlicensed. The manager told the inspector that she thought that the shop was allowed to operate on the old owner's license until they got on their feet. It had been 6 months since she said the new owner bought the shop. She said she really was unaware that the new owner hadn't handled the shop application.

The original recommendation was for settlement by consent order with civil penalty of \$500.00 against the shop and closure with letter of warning against the manager.

Since that time the shop ownership has changed again and the new owners have no knowledge of the violation and took possession of the shop in October 2016. The new owners have no knowledge of the whereabouts of the prior owner who was unlicensed.

Recommendation: Closure due to inability to locate and change of ownership.

Decision: Approved.

BARBER

22. Case No.: BAR-2017014411

First License Obtained: 05/18/2015

License Expiration: 05/31/2019

Complaint history: None

A complaint was filed by a consumer who alleges Respondent is working on a suspended master barber license. The complainant saw him working February 24, 2017. The inspector talked to the office manager because at the time of the inspection no unlicensed activity was found. The inspector advised that Respondent should not be teaching or performing services until his license becomes reactivated. The manager stated that she would advise Respondent that he is not to work until his licensure becomes current.

Recommendation: Close and flag.

Decision: Approved.

23. Case No.: BAR-2017013541

First License Obtained: 09/02/2010

License Expiration: 08/31/2018

Complaint history: 2013002361, closed by Consent Order and payment of \$250.00 civil penalty; closed by an Agreed Citation and payment of \$100.00 civil penalty

During the inspection of this dual shop, the inspector advised the manager that the barber license had expired. The barber portion of the shop was closed and only the cosmetology portion was open that day. Approximately a month later the inspector returned to the shop and the

owner/manager was performing barber services and stated he would renew his master barber license and acted surprised when the inspector asked about the barber shop license. The owner stated he would renew the license. The owner's master barber license was current, but the barber shop license was in expired grace.

Recommendation: Authorize case for formal charges. Authorize settlement for a civil penalty of \$500 for the second offense of an expired shop license.

Decision: Approved.

24. Case No.: BAR-2017019591

First License Obtained: 01/29/2013

License Expiration: 01/31/2017

Complaint history: 2013001731, closed by Consent Order and payment of \$750.00 civil penalty; 2015017431, closed by Consent Order and payment of \$1,000 civil penalty

25. Case No.: BAR-2017021251

First License Obtained: 07/15/2014

License Expiration: 07/31/2018

Complaint history: 2015017441, closed by Consent Order for a payment of \$1,000 civil penalty assessed against Respondent's shop in complaint # 2015017431

A complaint was filed by a consumer that alleges this barber shop is employing unlicensed individuals. The complainant alleges the unlicensed persons work on weekends and after business hours.

Upon inspection, the inspector observed that two people were providing services without a valid license at this location, as one male was working on an expired license and one male was working without a license. Further, the shop license was expired as well and the inspection sheet was not posted.

Recommendation: Authorize case for formal charges. Authorize settlement for a total civil penalty of \$1,200; \$1,000 for unlicensed individual, \$100 for expired shop license, and \$100 for expired personal license. Authorize letter of warning for failure to display inspection sheet.

Decision: Approved.

COSMETOLOGY

26. Case No.: COS-2017019211

First License Obtained: 05/18/2015

License Expiration: 05/31/2019

Complaint history: None

A complaint was filed by a consumer alleging that people were smoking and bringing dogs in the shop and that the shop is unclean. The complaint states that the shop manager left so the owner does not have a license and no one is running the shop.

The Board requested an investigation, which proved the complaint allegations to be unfounded. A Board inspector visited the shop on 3-29-17 and discovered that the shop's manager stated she submitted the complaint and 3-31-17 will be her last day at the shop. The inspector observed the shop to have a conflict between coworkers and that there is no merit to the allegations as the shop received a 94 on its inspection sheet.

Recommendation: Close.

Decision: Approved.

27. Case No.: COS-2017008651

<u>First License Obtained:</u>	06/07/1995
<u>License Expiration:</u>	01/31/2018
<u>Complaint history:</u>	208019771, closed by a Consent Order and payment of \$500 civil penalty; 2016062481, closed by a consent order and payment of a \$600 civil penalty

Upon routine inspection on February 3, 2017, it was discovered that the shop license had expired on January 31, 2016. The manager was not present during the examination.

Recommendation: Authorize case for formal charges. Authorize settlement for a civil penalty of \$1,500; \$500 for the second offense of an expired license and \$1,000 for the second offense of no manager present.

Decision: Approved.

28. Case No.: COS-2017010571

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

This complaint was filed by a consumer who states that Respondent is performing makeup services without a license. Complainant alleges Respondent created a school called War Paint Academy where they offer makeup courses and give certificates to their graduates.

Recommendation: Close with a letter of instruction.

Decision: Approved.

29. Case No.: COS-2017010671

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

This complaint was filed by a consumer who states that Respondent is performing makeup services without a license. Submitted with the complaint is what appears to be Respondent's Facebook page that states she is a makeup artist that can travel to locations needed for convenience and offers special pricing for large groups.

In the response to the complaint, Respondent apologized and stated when she started providing freelance makeup services in Tennessee in 2014, she asked saloons and a school in Nashville to see if a license was required and was told a license was not required for makeup. She stated she has deleted the websites that advertise her makeup services.

Recommendation: Close with a letter of instruction.

Decision: Approved.

30. Case No.: COS-2017010471

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

This complaint was filed by a consumer who states that Respondent is performing makeup services without a license. Submitted with the complaint is what appears to be Respondent's Facebook page that asserts Respondent is a makeup artist.

In the response to the complaint, Respondent states she moved to Tennessee in July 2016 and started doing makeup in October. She did not know that a license was needed to do only makeup, but a license was only needed to style hair. She states she called a school in Nashville and asked if she needed a license to be a freelance makeup artist and was told she did not.

Recommendation: Close with a letter of instruction.

Decision: Approved.

31. Case No.: COS-2017007371

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

This complaint was filed by a consumer who states that Respondent is performing makeup services without a license.

In the response to the complaint, Respondent stated that she accumulated over 1000 hours at Paul Mitchell-Huntsville but withdrew after a death in the family. She was just trying to make extra

money for bills and never tried to portray herself as someone who is a licensed cosmetologist. She has applied makeup to close friends and family many times and for a few weddings. She asked multiple cosmetologists if a license was required to apply makeup and was told no, so she had no idea she was doing anything wrong. Complainant has apparently contacted Respondent to do her makeup for photo shoots, so Respondent expressed surprise that Complainant would file a complaint against her.

Recommendation: Close with a letter of instruction.

Decision: Approved.

32. Case No.: COS-2017010691

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

This complaint was filed by a consumer who states that Respondent is performing makeup services without a license and included photos of Respondent's webpage offering services and identifying himself as a celebrity makeup artist with the complaint.

Recommendation: Close with a letter of instruction.

Decision: Approved.

33. Case No.: COS-2017010611

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

This complaint was filed by a consumer who states that Respondent is performing makeup services without a license and included a copy of Respondent's Facebook page which offers bridal, prom, events, airbrush, and lessons with the complaint.

Recommendation: Close with a letter of instruction.

Decision: Approved.

34. Case No.: COS-2017009721

<u>First License Obtained:</u>	07/18/1972
<u>License Expiration:</u>	07/31/2018
<u>Complaint history:</u>	None

The complaint was filed by a consumer who states a report of sexual harassment, discrimination, and bullying has been reported to the salon manager, and two assistant managers to no avail. Complainant states his wife has been contracting her services with this salon since August of 2016, and sexual harassment began a month later by a coworker who kissed his wife's jaw, blew kisses at her, and often brushed up against her while she was performing services. Recently, Complainant claims, this individual shouted "hey baby!" at his wife out of a car window. The complaint alleges a different coworker touched her hair without her permission and braided it. Complainant's wife wants the unwanted touching in the workplace to stop.

In its response, the salon stated its management had one-on-one discussions with each salon associate to explain to them that there should be no physical contact with each other and that they should respect each other's workplaces. Management told Respondent's wife that there were multiple people in the management chain she could take any future concerns to directly. Management told the coworker who touched Complainant's wife hair to stop and is not aware of the behavior reoccurring since this warning. The salon further stated that despite Complainant's wife waiting several months to make them aware of her concerns, as soon as management became aware of the concerns, they addressed and resolved each of her concerns.

Recommendation: Close.

Decision: Approved.

35. Case No.: COS-2017009691

<u>First License Obtained:</u>	09/16/2009
<u>License Expiration:</u>	09/01/2017
<u>Complaint history:</u>	2009023631, closed w/no action

A complaint was filed by a graduate of the school. He stated the school was in transition and the executive director, who resigned, was a blatant racist and told this student she hated him and would do whatever she could to destroy him. When this student went to take the practical portion of his examination, an instructor from the school called PSI and had them remove his name from the list. He believes that once his name appears on a production chart this instructor calls the businesses and slanders his name. He claims some of the instructors gave test answers to their favorite students. He stated the school has not helped with job placement and continues to impede his upward mobility. He has contacted the EEOC and the Tennessee Human Rights Commission to assist him with the unethical treatment he has received from the school.

In its response, the school stated that the claim that school staff is contacting employers and slandering his name is simply not true. Respondent did not provide any dates or evidence substantiating his claims.

Recommendation: Close.

Decision: Approved.

36. Case No.: COS-2017020141

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

A consumer complaint was filed alleging unlicensed activity, stating a registered nurse performs injectable makeup application and facials with an aesthetician that provides waxing services, but the studio is not licensed as a cosmetology shop to provide said services.

Upon investigation, the investigator informed the shop owner of the complaint. The owner stated she had not yet started providing the waxing services but was in the process of advertising the services and acquiring the equipment. The owner is a registered nurse and thought she could provide waxing services under a professional exemption. The investigator explained that to provide full waxing services she would need to apply for a skin care shop license and she agreed to do so immediately. There is a licensed aesthetician on staff that is able to act as manager for the new shop. No violations were discovered and the complaint was resolved through education.

Recommendation: Close.

Decision: Approved.

37. Case No.: COS-2017020381

First License Obtained: 08/04/2016
License Expiration: 08/31/2018
Complaint history: None

The former manager of the shop filed a complaint against the shop, alleging unlicensed activity. The complaint states that the shop has family members working without a license. The complaint alleges the unlicensed people produce someone else's license upon inspection and the state inspectors never ask for an identification that matches the licensure information.

Upon investigation, the investigator observed that the current aesthetic shop license was not posted due to being destroyed by the previous manager the week before. No skin care services were being offered or performed, and there was no licensed skin care professional employed.

Recommendation: Close.

Decision: Approved.

38. Case No.: COS-2017012821

First License Obtained: 12/12/2012
License Expiration: 11/30/2018
Complaint history: None

While performing an inspection, the Board inspector observed that the shop owner was providing services to a client, applying hair color on the client. However, the shop license that was posted was expired.

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.

39. Case No.: COS-2017022421

First License Obtained: 11/27/1991

License Expiration: 09/30/2017

Complaint history: 200502322, closed by Consent Order and payment of \$800.00 civil penalty; 200502346; closed by Consent Order and payment of \$300.00 civil penalty; 2014025881, closed by Consent Order and payment of \$1,000 civil penalty

Upon inspection of this licensed nail shop which was open to the public and providing services, the Board inspector observed a woman and two men performing manicures and no one was wearing a name tag. The inspector cited the two men for unlicensed activity – providing manicure services without a license. One of the men did not have a manicure license posted nor did he have a driver license to show. The other man also did not have manicure license posted but did have a photo identification. The shop was very dirty and had nail dust everywhere, the inspector noted. Pedicure chairs were dirty and had dirty tools at the work stations. There was a large mildew growth behind the pedicure chairs and a dirty towel was observed. The inspection sheet was also not displayed.

This is a second offense for two of the sanitary violations: 0440-2-.06 exposed surfaces not kept clean, and for 0440-2-.13 tools and implements not properly cleaned, sanitized and stored, violations which were found in the 2014 inspection.

Recommendation: Authorize case for formal charges. Authorize issuance of a letter of warning for inspection sheet not displayed, as this is a first offense for this violation. Authorize issuance of a letter of warning for licensure not displayed, as this is a first offense for this violation. Authorize settlement for a civil penalty for \$2,000 for permitting individuals to perform services without a valid license, and \$1,000 for the sanitary violations for a total civil penalty of \$3,000.

Decision: Approved.

40. Case No.: COS-2017021921

First License Obtained: N/A

License Expiration: N/A

Complaint history: None

A complaint was filed by a consumer alleging Respondent has been operating a hair salon out of her basement for several months without a personal or shop license and advertises her services on Facebook. The complainant states that many people have complained to her about Respondent's work, and complainant does not know what to do since Respondent does not have a license or insurance. Included with the complaint were several screen shots of a Facebook page showing hair services provided and business cards.

In her response, Respondent states that she has been providing natural hair services out of her basement for a few months but has not put the public at risk at any way as the public is not welcome in her home, as she provides services just for family and friends. She is in the process of getting the 300 hours needed to take the natural hair styling exam. She states she only provides natural and protective styles such as braids, crochets, weaves, and flat ironing, and does not use chemicals. The Board responded to Respondent's inquiries as to how she can provide her services legally by stating natural hair stylists are required to have a license in Tennessee and hair services can only be performed in one's home if there is a valid shop license. Respondent responded that she does not want to run a shop, but had family and friends asking to have their hair done so she set up a space. The Board replied that because Respondent is providing a service and charging a fee, Respondent will need to discontinue services until she meets all licensing requirements. The licensure requirements were provided to Respondent.

Recommendation: Authorize case for formal charges. Authorize settlement for a civil penalty for \$1,000 for operating a shop without a license.

Decision: Approved.

RESPRESENTS

41. Case No.: BAR-2017003241

<u>First License Obtained:</u>	07/10/2002
<u>License Expiration:</u>	07/31/2018
<u>Complaint history:</u>	None

The Board previously authorized a civil penalty in the amount of \$500 against the Respondent as Respondent was observed practicing barber services on a client's hair by an inspector in a shop licensed only as a full service cosmetology shop.

After this case was presented to the Board, Respondent submitted a written response stating that he worked at the shop with the understanding that the shop was licensed so that he could work there as a barber and was confident he was in compliance until the inspection revealed otherwise. After the inspection he worked for a different shop until the cited shop obtained proper licensure, which it did promptly after the citation. This barber further does not have a prior complaint history, which he pointed out in his response.

Further, the Board reduced the penalty of similarly situated Respondents from \$500 to \$100 at the April 2017 Board meeting.

Recommendation: Authorize case for formal charges. Authorize settlement for a total civil penalty of \$100 for providing services not authorized by the individual's license.

Decision: Approved.

42. Case No.: COS-2017003221

<u>First License Obtained:</u>	01/30/2009
<u>License Expiration:</u>	01/31/2017
<u>Complaint history:</u>	None

The Board previously authorized a civil penalty in the amount of \$1,500 against the Respondent because at the time of the inspection, Respondent was licensed as a full service cosmetology shop but was offering barber services and permitting an individual to perform barber services without a valid license.

After this case was presented to the Board, Legal received a response from the shop that the shop applied for a barber license the day after the NOV was issued, an action the Board would look favorably upon, as the shop sought immediate compliance. The shop stated it fired the unlicensed worker immediately. This employee's license does look valid and without doing a licensure search, they would have had no reason to know it was fake.

Recommendation: Authorize case for formal charges. Authorize settlement for a total civil penalty of \$250.

Decision: Approved.

43. Case No.: COS-2016018491

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

The Board previously authorized a \$1,000 civil penalty against Respondent, as the complaint alleges Respondent provided hair styling services without a license. After multiple attempts to mail a consent order to Respondent came back unreturnable, Legal requested personal service.

Several telephone numbers were located for Respondent, but most were disconnected or no longer in service, and the two numbers that appeared to be current were picked up automatically and no mailbox was set up. The investigator also visited a shop where Respondent worked, but was advised that the owner had not seen her in weeks but provided an address for Respondent's parents, where Respondent was believed to be living. The investigator went to the residence but there was no answer, and despite leaving his business card at the door requesting a call, he did not receive a call. Further investigation revealed another shop where she may work, but that shop owner advised she fired Respondent two months ago. The investigator contacted Respondent's

sister-in-law and was told Respondent moved out of her parents' home to an unknown location, doubts Respondent will return phone calls, is difficult to communicate with, and does not involve herself in family affairs. No further contact information was located for Respondent.

All leads developed regarding Respondent have been exhausted without identifying a viable address, and attempts to contact Respondent via telephone were unsuccessful. Attempts to locate Respondent were unsuccessful.

Recommendation: Close.

Decision: Approved.

44. Case No.: COS-2017006421

<u>First License Obtained:</u>	11/29/2016
<u>License Expiration:</u>	11/30/2018
<u>Complaint history:</u>	2012024531, Respondent previous license #157891 revoked pursuant to Final Order in Docket No. 12.09-11934A

The Board previously authorized license revocation against the Respondent because it appeared the Respondent used fraudulent means to apply for a license. Respondent answered "no" to questions asking if she was previously licensed and if she was ever disciplined. It appeared that her license was revoked because her hours came from a Texas school that admitted to fraudulently awarding hours but her hours and exam score were valid. The complaint was opened administratively solely because she failed to disclose on her application for licensure that her license had been revoked.

Upon consulting with the Executive Director, revocation is not appropriate in this case. Language barriers are a common issue with licensees as the form they complete for licensure in in English and sometimes the licensees just check a box even if the intent to deceive is not there. In this case, upon attempting to reinstate her license, Respondent did not mark truthful information.

Recommendation: Letter of instruction, advising the licensee that she must comply with all rules and laws of Tennessee and not understanding the laws and rules is not an excuse for failure to comply.

Decision: Approved.

45. Case No.: COS- 2017004981

<u>First License Obtained:</u>	02/03/2009
<u>License Expiration:</u>	01/31/2019
<u>Complaint history:</u>	2013025291, closed by Consent Order and

payment of \$750.00 civil penalty; 2015018031, closed by Consent Order and payment of \$3,000 civil penalty

46. Case No.: COS- 2017005001

First License Obtained: 08/27/2002
License Expiration: 08/31/2018
Complaint history: 2013025291, closure; 2015018071

The Board previously authorized a \$5,000 civil penalty against Respondent for the following sanitation violations: large amount of nail dust collected on the top of equipment, dirty towels left on the floor from a client that had received services prior to the inspection, the trash container was missing a cover, no wet sterilizers at the work station for manicure/pedicure, and the UV sanitizer was in the rear of the shop not being used. Additionally, every work station for manicure/pedicure had dirty buffers, dirty files, and several dirty tools inside the work station and dirty towels were being used on customers.

This authorization was \$1,000 for each of the following 5 sanitary violations under the assumption that this was the third offense for sanitary violations under the agreed citation schedule:

- 1) Inadequate lighting and/or ventilation/ exposed surfaces not being kept clean; and
- 2) Hair cuttings, nail dust not removed after each customer/ floors not mopped or swept daily; and
- 3) Trash containers not covered/unsanitary; and
- 4) Inadequate dry sterilizer, wet sterilizer, ultra violet sanitizer and/or blood spill kit; and
- 5) All tools and implements not properly cleaned, sanitized, and/or stored in closed containers and proper sanitation techniques not practiced after each use

Recommendation: Authorization for a hearing. Of the 5 violations that were found in the 2017 report, 1 is a first time offense meriting a letter of warning, 3 are second time offenses meriting \$500 civil penalty per offense, and 1 is a third time offense, meriting a \$1,000 civil penalty, for a total civil penalty of \$2,500.

2013 violations

- 0440-02-.07 No container for clean and soiled towels (1 – LOW)
- 0440-02-.07 Uncovered trash container (1 – LOW)

2015 violations

- 0440-2-2.06 nail dust, work area not cleaned after each customer (1 – LOW)
- 0440-2-.07 trash containers not covered (2 – \$500 civil penalty)
- 0440-2-.07 inadequate wet sterilizer & UV sterilizer not being used (1 – LOW)
- 0440-2-2.13 tools, equipment not properly cleaned (1 – LOW)

2017 violations

- 1) 0440-2-.06 exposed surfaces unclean (1 – LOW)
- 2) 0440-2-.06 nail dust not removed after each customer (2 – \$500)
- 3) 0440-2-.07 trash container not covered (3 – \$1,000)
- 4) 0440-2-.07 inadequate wet and UV sterilizer (2 – \$500)
- 5) 0440-2-.13 tools not properly cleaned (2 – \$500)

Decision: Approved.

Cosmetology Consent Orders and Agreed Citations – March - Totaling \$22,116

The board decided at the April 3, 2017 meeting that all complaints and agreed order citations could be closed when all the requirements are met and not have to wait until the following board meeting. This change was made immediately. Each meeting the office will present the dollar amount for civil penalties received but it's likely the final number will be a month behind.

NEW BUSINESS

A written process for the Examination and Application Requirements were presented to the board for review and changes. Ms. Cherrelle Hooper answered all questions and explained, with a growing number of international applicants and need for verification of documents, the board needs to consider an interim policy while the specific requirements are moved through the rule making process.

The 2017 continued education seminar list was routed to that each member could sign up for the session they wish to participate in and attend representing the full board.

In June, the change in rules allowing the crossover of hours between cosmetology and barber to be 300 instead of 750 go into effect. Along with the reduction of hours is the statement about having been licensed for five years and able to apply experience instead of hours. Previous conversations addressed this, and the decision was for these applicants asking for the waiver of hours to appear before the board and explain their situation. The board office has received dozens of calls and is already collecting these applications for the June meeting. The Board recommended an application or form outlining criteria for acceptance which further requests additional information that may be needed for board review. It will need to include items such as the statute, disciplinary history in other states, and specific experience declaration.

MOTION made by Patricia Richmond and seconded by Judy McAllister to grant approval for the Executive Director to create dual license application or form outlining criteria in need of consideration and to submit referrals by discretion to the Board for review. Motion carried unanimously.

Motion to adjourn

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