



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

MINUTES

The Tennessee State Board of Cosmetology Held a meeting May 6, 2013 at 9:00 a.m. in Nashville, Tennessee.

The following members were present: Linda Colley, Chairman, June Hucceby, Muriel Smith, Rufus Hereford, Pearl Walker-Ali and Judy McAllister. Nina Coppinger absent.

Other present were: Rachel Powers, Program and Policy Director, Robert Herndon, Attorney for the Board, Hosam William, Paralegal and Betty Demonbreun, Administrative Assistant.

The Meeting was called to order by Board Chairman Linda Colley.

Linda Colley, Board Chairman welcomed everyone to the Board meeting and acknowledged cosmetology schools in attendance.

MINUTES-

Minutes for the April 1, 2013 board meeting and reciprocity committee meeting were submitted for changes and/or approval.

MOTION made by Judy McAllister seconded by Pearl Walker-Ali to approve the April reciprocity committee meeting minutes. Motion carried unanimously.

MOTION made by June Hucceby seconded by Muriel Smith to approve the April board meeting minutes. Motion carried unanimously.

APPEAR BEFORE THE BOARD-

Bill Giannini, Assistant Commissioner.

Assistant Commissioner, Giannini introduced the new Executive Director, Roxana Gumucio to the Board members and also wanted to give his appreciation for Rachel Powers for her hard work and for all she has done with the Board since she has taken the position over.

Lourdes Cerda Padilla and John Sanchez, Lenoir City, Tennessee

Lourdes Cerda Padilla is requesting the board's reconsideration of her reciprocal cosmetology application from Wisconsin and Mexico. The application was previously considered in November 2011 and the board voted she would be required to pass the Tennessee examination. Ms. Padilla has been licensed in Wisconsin since 2007 and has 1500 hours of education from Mexico and was licensed there in 1997. She also completed continuing education courses in Wisconsin in both safety and sanitation and law upon receiving licensure there.

Motion by Rufus Hereford and seconded by Pearl Walker-Ali to approve the reciprocity application. Motion carried unanimously.

Maria Wallace, Nashville, Tennessee

Maria Wallace is requesting approval to take the Tennessee Cosmetology examination with hours received from 1988 through 1992. Ms. Wallace's application, hours and transcripts are provided. She was previously licensed as a manicurist in Tennessee in 1991, but this license has since expired. Current cosmetology board policies provide only 150 general education hours can be transferred from an active license towards curriculum for another license, but Ms. Wallace would like to use all hours towards the cosmetology licensure.

Motion by Rufus Hereford and seconded by June Huckleby to deny Maria Wallace's application for examination and transfer of all manicuring hours. The board advised Ms. Wallace would be allowed to transfer 150 hours of general educational credit from her manicurist license, but would first need to test to reinstate that licensure. Motion carried unanimously

Oscar Hodge, Rasco Radiant School of Cosmetology – Covington, Tennessee

An application has been received from Rasco Radiant Academy of Cosmetology, to be located at 1830 Highway 51, Covington, Tennessee for a new school of cosmetology. The school has provided the application payment, floor plan, and surety bond. The application was previously presented, but the floor plan did not specify square footage. Updated documentation and a new floor plan is attached to the documentation presented. This school has been inspected by the board member and inspector after the request of the board at the last meeting.

Pearl Walker-Ali updated the board on her inspection of the school and advised of some furniture relocation, but voiced her overall approval of the schools floor plan after the changes and updates had been completed.

Motion by Pearl Walker-Ali and seconded by Judy McAllister for approval of the school application. Motion carried unanimously.

Robin Wilson, Expert Ease Consulting, LLC -- Continuing Education Seminar

Robin Wilson and Ciara Gordon previously appeared before the board to present information for the board's approval of a continuing education seminar approved for instructors in June 2013. Ms. Wilson and Ms. Gordon are requesting approval of the same seminar on Saturday, August 10, 2013 and Sunday, August 11, 2013 in Gatlinburg, Tennessee, and again in Chattanooga, Tennessee on Saturday, October 12, 2013 and Sunday, October 13, 2013. Seminar information and resumes of instructors are provided.

Motion by June Huceby and seconded by Muriel Smith to table the continuing education seminar request until completion of all evaluations and feedback from the June seminar is reviewed and approved as sufficient. Motion carried unanimously.

APPLICATIONS FOR EXAMINATION-

Applications for examination for Brian Caple, Jason Faulkner, Shereese Arnold, and Teai Arwood who have felonies are submitted for the board's approval. The required information, disclosure from the student and letter of examination from school attended is submitted.

Motion made by Muriel Smith and seconded by June Huceby to approve each application for examination with a signed Agreed Order. Motion carried unanimously.

INSTRUCTOR SEMINAR EXTENSION REQUEST-

Request to extend continuing education from 2012 to 2013 for Theresa Smith because of illness. Her request was presented in November 2012 and the board voted that she would need to provide a doctor's note which detailed her condition. She last attended a seminar in 2010. A doctor's letter is provided.

Motion made by Muriel Smith and seconded by June Huceby to approve the request. Motion carried unanimously.

Request from Monica Renee Barnes to accept continuing education hours earned at Milady's Career Institute in 2012 for her licensure renewal. Information on the classes attended is provided. Her continuing education due date was 2012 and she last attended in July 2010.

Motion made by June Huceby and seconded by Muriel Smith to deny the request. Motion carried unanimously.

APPLICATIONS FOR RECIPROCITY-

Application for reciprocity of cosmetologist license from Thailand and Oklahoma for Chamaphon Cross. Certification from Oklahoma verifies reciprocity received from Thailand. Transcript from Ruengrit School of Hair verifies 1500 hours in the cosmetology curriculum and an initial date of licensing in 1996.

Recommendation - is that the applicant be approved for a reciprocal cosmetology license.

MOTION made by Rufus Hereford and seconded by Muriel Smith to deny the reciprocity recommendation and require the applicant to take the Tennessee examination. Motion carried unanimously.

Application for reciprocity of cosmetologist license from Michoacan, Mexico, for Angelica Espinoza. Diploma and transcript are provided which verifies 2000 hours of instruction in the cosmetology curriculum and an additional 1500 hours at Paul Mitchell School completed in 2012.

Recommendation - is that the applicant take the Tennessee examination.

MOTION made by Muriel Smith and seconded by Rufus Hereford to grant reciprocity recommendation. Motion carried unanimously.

Application for reciprocity of cosmetologist license from Pennsylvania for Alyssa Ferree. Certification verifies 1250 hours of instruction in the cosmetology curriculum and initial date of licensing in 2009.

Recommendation - is that the applicant take the Tennessee examination.

MOTION made by Rufus Hereford and seconded by Judy McAllister to grant reciprocity recommendation. Motion carried unanimously.

Application for reciprocity of cosmetologist license for Sara Grindrod from Massachusetts. Certification verifies 1000 hours and initial date of licensing in 1995 but her license has lapsed.

Recommendation - is that the applicant provide current proof of licensure and sit for the Tennessee examination.

MOTION made by Rufus Hereford and seconded by Muriel Smith approve the reciprocity recommendation and require the applicant to complete five (500) hours of instruction in the cosmetology curriculum and pass the Tennessee examination in order to substantially meet the qualifications for licensure in Tennessee. Motion carried unanimously.

Application for reciprocity of cosmetologist license from Oregon for Meredith Hager. Certification verifies 2300.4 hours and initial date of licensing in 2009. Her hours are broken down on the certification and a transcript.

Recommendation - is that the applicant be approved for a reciprocal license.

MOTION made by Judy McAllister and seconded by Rufus Hereford to grant reciprocity recommendation. Motion carried unanimously.

Application for reciprocity of manicurist license from California for Thanh Nguyen. Certification verifies 350 hours and initial date of licensing in 1989. Tax returns are provided for 2009, 2010, 2011 and 2012 and an explanation letter is provided relative to the missing years.

Recommendation - is that the applicant be approved for a reciprocal license.

MOTION made by Judy McAllister and seconded by Pearl Walker-Ali to grant reciprocity recommendation. Motion carried unanimously.

Application for reciprocity of manicurist license for Cuong Pham from Pennsylvania. Certification verifies the applicant was licensed by examination with 200 hours and initial date of licensing in 2006. A work history letter is provided, but does not immediately precede the date of application.

Recommendation - is that the applicant take the Tennessee examination.

MOTION made by Rufus Hereford and seconded by Muriel Smith to grant reciprocity recommendation. Motion carried unanimously.

Application for reciprocity of cosmetologist license for Lindsay Roberson from Arizona and Idaho. An Arizona certification verifies the applicant was licensed by reciprocity from Idaho and an Idaho certification verifies she was licensed by examination with 2000 hours and initial date of licensing in 2002, but both licenses have lapsed.

Recommendation - is that the applicant provides current proof of licensure and upon receipt of proof be approved for a reciprocal license.

MOTION made by Rufus Hereford and seconded by Judy McAllister to grant the reciprocity recommendation but she will need to provide current proof of current active licensure in one of the two reciprocal states. Motion carried unanimously.

Application for reciprocity of cosmetologist license from Texas and Mexico for Alma Rosa Robles with 1800 hours in the curriculum. Certification verifies initial date of licensing in 2013. This application was previously presented to the board in November 2009 and the board requested the applicant provide additional information relative to the courses taken in the curriculum. A copy of the applicant's transcript has been provided

Recommendation - is that the applicant be approved for reciprocity.

MOTION made by Judy McAllister and seconded by Pearl Walker-Ali to grant reciprocity recommendation. Motion carried unanimously.

Application for reciprocity of aesthetician license from Michigan for Brenna Sheehan with 600 hours in the curriculum. Certification verifies initial date of licensing in 2011. Work history letter is provided, but does not show a full 5 year work history.

Recommendation - is that the applicant take the Tennessee examination.

MOTION made by Judy McAllister and seconded by Pearl Walker-Ali to grant reciprocity recommendation. Motion carried unanimously.

Application for reciprocity of cosmetologist license from Puerto Rico for Somlit Vongpanya. Certification verifies initial date of licensing in 1990 and 1500 hours in the cosmetology curriculum. Diplomas, transcripts and work history letters are provided.

Recommendation - is that the applicant be approved for reciprocity.

MOTION made by Rufus Hereford and seconded by Judy McAllister to grant reciprocity recommendation. Motion carried unanimously.

Application for reciprocity of manicurist license from Pennsylvania for Phuong Thi Thuy Nguyen. Certification verifies initial date of licensing in 2003 and 400 hours in the curriculum. Tax returns are provided, but the 2012 return displays a Tennessee address.

Recommendation - is that the applicant take the Tennessee examination.

MOTION made by Judy McAllister and seconded by Pearl Walker-Ali to grant reciprocity recommendation. Motion carried unanimously.

Application for reciprocity of cosmetologist license from New York for Ebony Chillis. Certification verifies initial date of licensing in 2013 and 1000 hours in the curriculum.

Recommendation - is that the applicant take the Tennessee examination.

MOTION made by Judy McAllister and seconded by Pearl Walker-Ali to grant reciprocity recommendation. Motion carried unanimously.

MISCELLANEOUS REQUESTS-

Request by Christina J. Perkins with Tennessee State University for board approval to offer a 2013 Barber and Cosmetology Instructor Seminar on August 11 and 12, 2013 at Tennessee State University pursuant to rule 0440-1-.11: Teacher Training Programs. The seminar information and brochure is provided.

MOTION made by Muriel Smith and seconded by June Hucceby to approve the request to offer a continuing education course. Motion carried unanimously.

Request from Tray Turner to waive the six (6) month rule (0440-1.10(1), which requires an applicant to retest if the licensure fee is not paid within six (6) months of passage of an examination. Mr. Turner provided a letter which explains he passed the examination in 2007 and he was subsequently released from prison into county custody to await trial for pending charges. At that time he was under the impression his licensure fee had been paid by the Turney Center program just like all other inmates and because he had no means to contact state board he did not know his fee had not been submitted. He is requesting the board consider this "good cause" to waive the rule and allow him to being training for an instructor program.

MOTION made by June Hucceby and seconded by Muriel Smith to approve the request to waive the six (6) month rule on the condition that he passed the examination. Motion carried unanimously.

FIELD TRIP REQUESTS-

Field trip request from Virginia College School of Business and Health for permission to take students to local Hamilton County Salons; including Great Clips, Chloe's Haircolour and Design, SmartStyles, Regis, Epiphany's Dayspa and Salon and more with educational facilitators. The time allotted for the experience will be from 10am-2pm for day classes and 6pm – 9pm for evening classes. The curriculum will directly correlate with the requested field trip. They will be gaining knowledge from the salon owners and stylists in that salon by observing and being responsible to answer questions related to that salon experience and to gain knowledge of the "real world" experience.

MOTION made by June Hucceby and seconded by Judy McAllister to approve the request. Motion carried unanimously.

Field trip request from Paul Mitchell the School of Knoxville for permission for students to be involved with a spa day for senior citizens where students will be assisting with stylists and a spa team doing prep work and clean-up to give back to the elderly.

MOTION made by Judy McAllister and seconded by Rufus Hereford to approve the request. Motion carried unanimously.

Field trip request from Empire Beauty School for permission for the Tech class on May 24, 2013, to visit Top Notch Lock Bar and Beauty from 9:00 to 1:00, to study haircutting with Terrance Adams the educational facilitator.

MOTION made by Rufus Hereford and seconded by Judy McAllister to approve the request. Motion carried unanimously.

Field trip request from Empire Beauty School for permission to take the student salon management class to go outside of the school environment for educational purposes on April 15, 2013 and again on June 4, 2013. The location of the field trip will be Regis & Macy's Salon at the Oak Mall, in Memphis, Tennessee from 10:00 am to 1:00 pm. The class curriculum during that week will be Management in a Salon. This curriculum will directly correlate with the requested field trip. Students will gain additional knowledge and know-how relating to the subject matters taught during the week.

MOTION made by Judy McAllister and seconded by Pearl Walker-Ali to approve the request. Motion carried unanimously.

Field trip request from Georgia Career Institute For permission to take our students for our annual field trip to the Southern Womens Show on April 18th, 2013.

MOTION made by Muriel Smith and seconded by Pearl Walker-Ali to approve the request. Motion carried unanimously.

Field trip request from Georgia Career Institute for permission to take a field trip to What's New The Salon. The trip will be in Nashville where the salon is located at 412 Uptown Square on May 7, 2013 from 9:00 to 3:30 p.m. The benefit of the trip is to show the difference in a spa and a salon.

MOTION made by June Huckeby and seconded by Muriel Smith to approve the request. Motion carried unanimously.

Field trip request from Georgia Career Institute for the cosmetology students to go to the State Beauty Supply and Pigtails and Crewcuts in Murfreesboro, Tennessee on Thursday, April 4,

2013. The benefit of the field trip is to familiarize students with the products state has to offer and see what options are out there in employment after graduation, and the benefits of working at Pigtails and Crewcuts.

MOTION made by Muriel Smith and seconded by Judy McAllister to approve the request. Motion carried with one nay by Rufus Hereford.

Field trip request from Skin Academy at Paul Mitchell the School Nashville to take the students on Tuesday May 28th, 2013, to visit salons as well as medical spas. The Future Professionals clock in at the normal time and we will be leaving the school at 10:00 a.m. and will be away from the building for the remainder of the day.

MOTION made by Judy McAllister and seconded by Pearl Walker-Ali to approve the request. Motion carried with one nay by Muriel Smith.

Request from Virginia College School of Business and Health for permission to take a field trip on May 3, 2013 to The Aim Center in Chattanooga, Tennessee from 10:00 a.m. to 2:00 p.m. The Aim Center will be teaching students how to best handle adults with learning disabilities and educating them on clients with special needs. The students will also provide services that directly relate to the curriculum they have learned. The educational facilitator that will be responsible for hosting the trip is Naya Mitchell and Karen Sherlin. The curriculum will directly correlate with the requested field trip. Students will gain additional knowledge and know-how relating to the subject matters taught during this course.

MOTION made by Judy McAllister and seconded by Pearl Walker-Ali to approve the request. Motion carried unanimously.

Field trip request from Volunteer Beauty, Inc. for permission to take our students to State Beauty Supply on May 7, 2013.

MOTION made by Muriel Smith and seconded by Judy McAllister to approve the request. Motion carried with one nay by Rufus Hereford.

LEGAL REPORT- STAFF ATTORNEY



STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
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TO: Tennessee State Board of Cosmetology
FROM: Robert E. Herndon, Assistant General Counsel
DATE: May 6, 2013
SUBJECT: Legal Report

NEW CASES

- Case No.: L13-COS-RBS-2013006041**
First License Obtained: 03/21/1994
License Expiration: 09/01/2013
Complaint history: One (1) violation 11/07/95; \$100.00 CP

The Complainant alleges that the Respondent, a licensed cosmetology school, committed misconduct in violation of Tenn. Code Ann. § 62-4-127(b)(2) (prohibiting unprofessional, immoral or dishonorable conduct) by failing to provide contracted services, selectively enforcing school regulations and refusing to reenroll an existing student without a good reason. The Respondent submits a letter addressing the allegations by stating that the Complainant student was refused readmission due to the Complainant's failure to abide by the school's regulations, including excessive suspensions, poor attendance and failure to maintain a paid enrollment balance.

Recommendation: Close the case for lack of probable cause for discipline with the option to revisit the matter should new, relevant information arise.

Analysis: The Board agrees.

Decision: Approved.

2. **Case No.: L13-COS-RBS-2013004041**
First License Obtained: 03/21/1994
License Expiration: 09/01/2013
Complaint history: One (1) violation 11/07/95; \$100.00 CP

The Complainant alleges that the Respondent, a licensed cosmetology school, committed misconduct in violation of Tenn. Code Ann. § 62-4-127(b)(2) (prohibiting unprofessional, immoral or dishonorable conduct) by mailing the Complainant's tax forms with the social security number visible through the envelope window and by suspending the Complainant without a good reason; i.e. possession of bottles water in an unauthorized location. The Respondent submits a letter addressing the allegations by stating that the Respondent school will now use envelopes without windows to prevent a reoccurrence. The response letter does not address the suspension.

Recommendation: Close the case for lack of probable cause for discipline with the option to revisit the matter should new, relevant information arise.

Analysis: The Board agrees.

Decision: Approved.

3. **Case No.: L13-COS-RBS-2013004101**
First License Obtained: 03/21/1994
License Expiration: 09/01/2013
Complaint history: One (1) violation 11/07/95; \$100.00 CP

The Notice of Violation alleges that the Respondent, a licensed cosmetology school, had at least one trainee teaching a manicuring and/or cosmetology class without an instructor present in violation of Tenn. Code Ann. § 62-4-122(b) (an instructor must be present when cosmetology courses are being presented). Additionally, the Respondent school allegedly violated the Board's sanitary rules [Tenn. Code Ann. § 62-4-122(g)(1) requires schools to comply with the Board's sanitary rules] by failing to have the inspection report posted (Tenn. Comp. R. & Reg. 0440—02—.05(2)); failing to provide lighting on manicure tables (Tenn. Comp. R. & Reg. 0440—02—.06(1) requires manicuring only in rooms which are adequately lighted); failed to properly label all products (Tenn. Comp. R. & Reg. 0440—02—.07); failed to ensure that all instructors were wearing proper name tags (Tenn. Comp. R. & Reg. 0440—02—.08(2)).

Recommendation: Authorize a formal hearing with authority to settle by consent order with a civil penalty of \$250.00 for each of the five (5) violations, for a total civil penalty of \$1,250.00.

Analysis: The Board agrees with this assessment.

Decision: Approved.

- 4. Case No.: L13-COS-RBS-2013005171**
First License Obtained: 03/20/1998
License Expiration: 07/31/2014
Complaint history: None

The Notice of Violation alleges that the Respondent, a licensed cosmetology shop, violated the following of the Board's administrative rules relative to providing manicure services: Failing to ensure that employees wore name tags in violation of Tenn. Comp. R. & Reg. 0440—02—.08(1) [ATTIRE]; failing to maintain a clean facility by exhibiting dirty floors in violation of Tenn. Comp. R. & Reg. 0440—02—.06(2) and (3) [FACILITIES]; failing to properly label all products in violation of Tenn. Comp. R. & Reg. 0440—02—.07(3) [EQUIPMENT]; and failing to properly clean and disinfect foot baths in violation of Tenn. Comp. R. & Reg. 0440—02—.13(6) [SANITATION AND DISINFECTION].

Recommendation: Authorize a formal hearing with authority to settle by consent order with a civil penalty of \$250.00 for each of the four (4) violations, for a total civil penalty of \$1,000.00.

Analysis: The Board agrees with this assessment.
Decision: Approved.

- 5. Case No.: L13-COS-RBS-2013005141**
First License Obtained: 02/17/1994
License Expiration: 03/31/2015
Complaint history: None

The Notice of Violation alleges that the Respondent, a licensed cosmetology shop, utilized unlicensed individuals to provide cosmetology services in violation of Tenn. Code Ann. 62-4-108 and failed to maintain a clean facility in violation of Tenn. Comp. R. & Reg. 0440—02—.06(2) [FACILITIES].

Recommendation: Authorize a formal hearing with authority to settle by consent order with a civil penalty of \$250.00 for each of the two (2) violations, for a total civil penalty of \$500.00.

Analysis: The Board agrees with this assessment.
Decision: Approved.

- 6. Case No.: L13-COS-RBS-2013003071**
First License Obtained: N/A
License Expiration: N/A
Complaint history: None

The Complainant alleges that the Respondent, a licensed cosmetologist, is providing hair styling services from a private residence rather than a licensed cosmetology shop in violation of Tenn. Code Ann. § 62-4-125(d)(2), which provides that it is unlawful for a license-holder to practice outside a licensed cosmetology shop unless under a proper exemption. There is no evidence that such an exemption applies in this matter.

Recommendation: Close the case due to lack of evidence of probable cause and issue a Letter of Warning with the option to reconsider if new evidence arises.

Analysis: The Board agrees.

Decision: Approved.

7. Case No.: L13-COS-RBS-2013005131
First License Obtained: 10/29/2007
License Expiration: 10/31/2013
Complaint history: None

The Notice of Violation alleges that the Respondent, a licensed cosmetology shop, failed to maintain a clean floor in violation of Tenn. Comp. R. & Reg. 0440—02—.06(3) [FACILITIES], failed to maintain an ultra violet sanitizer in violation of Tenn. Comp. R. & Reg. 0440—02—.07(1)(h) [EQUIPMENT], failed to ensure that employees were wearing proper name tags in violation of Tenn. Comp. R. & Reg. 0440—02—.08(1) [ATTIRE] and failed to employ a proper manager for the salon aspect of the business in violation of Tenn. Code Ann. § 62-4-118(b) (Operation of a shop).

Recommendation: Authorize a formal hearing with authority to settle by consent order with a civil penalty of \$250.00 for each of the four (4) violations, for a total civil penalty of \$1,000.00.

Analysis: The Board agrees with this assessment.

Decision: Approved.

8. Case No.: L13-COS-RBS-2013003941
First License Obtained: 10/15/2009
License Expiration: 09/30/2013
Complaint history: None

The Notice of Violation alleges that the Respondent, a licensed cosmetology shop, was employing personnel who were not properly licensed in violation of Tenn. Code Ann. § 62-4-108 (License required to practice or teach) and was also failing to maintain its foot bath and implements in an sanitary manner as required by Tenn. Comp. R. & Reg. 0440—02—.13 [SANITATION AND DISINFECTION].

Recommendation: Authorize a formal hearing with authority to settle by consent order with a civil penalty of \$250.00 for each of the two (2) violations, for a total civil penalty of \$500.00.

Analysis: The Board agrees with this assessment.

Decision: Approved.

9. Case No.: L13-COS-RBS-2013004111
First License Obtained: 09/10/1991
License Expiration: 05/31/2014
Complaint history: None

The Notice of Violation alleges that the Respondent, a licensed cosmetology shop, was employing at least two unlicensed individuals to service clients in violation of Tenn. Code Ann. § 62-4-108 (License required to practice or teach). Additionally, the Notice of Violation alleges violations of Tenn. Comp. R. & Reg. 0440—02—.06(2) and (3) [FACILITIES] in that the floor and exposed surfaces were not clean, products were unlabeled in violation Tenn. Comp. R. & Reg. 0440—02—.07 [EQUIPMENT], and tools and implements were dirty and exposed in violation of Tenn. Comp. R. & Reg. 0440—02—.13(2) [SANITATION AND DISINFECTION].

Recommendation: Authorize a formal hearing with authority to settle by consent order with a civil penalty of \$250.00 for each of the five (5) violations, for a total civil penalty of \$1,250.00.

Analysis: The Board agrees with this assessment.

Decision: Approved.

10. Case No.: L13-COS-RBS-2013008281
First License Obtained: 03/24/2006
License Expiration: 02/21/2013
**Complaint history: L08-COS-RBS-2008019781, Closed
11/12/08 with L.O.W; L11-COS-RBS-
2011025801, Formal Charges Authorized.**

The Inspection Report and accompanying Notice of Violation alleges that the Respondent, a licensed cosmetology shop, failed to have a manager on duty during business hours in violation of Tenn. Code Ann. § 62-4-118(b) (Operation of a shop) and that the individual providing services at a work station was not authorized by the appropriate license to do so in violation of Tenn. Code Ann. § 62-4-119.

Recommendation: Authorize a formal hearing with authority to settle by consent order with a civil penalty of \$250.00 for each of the two (2) violations, for a total civil penalty of \$500.00.

Analysis: The Board agrees with this assessment.

Decision: Approved.

11. Case No.: L13-COS-RBS-2013006031

First License Obtained: 02/06/2008

License Expiration: 03/31/2014

**Complaint history: L11-COS-RBS-2011032381, Closed
02/08/12 with L.O.W.**

The Complainant alleges that the Respondent is utilizing unlicensed individuals to provide cosmetology services in violation of Tenn. Code Ann. § 62-4-108 (License required to practice or teach). The Respondent answers via letter all employees are licensed and invites a Board inspection.

Recommendation: Close the case due to lack of evidence of probable cause and issue a Letter of Warning with the option to reconsider if new evidence arises.

Analysis: The Board agrees.

Decision: Approved.

12. Case No.: L13-COS-RBS-2013008291

First License Obtained: 01/27/1997

License Expiration: 01/31/2009

**Complaint history: L06-COS-RBS-2006014021, dismissed
04/03/09 with re-inspection.**

The Notice of Violation alleges that the Respondent, an unlicensed business, is currently providing cosmetology services despite the shop license having expired in 2009 in violation of Tenn. Code Ann. § 62-4-118(a) (Operation of a shop). Additionally, the Notice of Violation alleges that the Respondent business is employing a total of six individuals to provide these services.

Recommendation: Authorize a formal hearing with authority to settle by consent order with a total civil penalty of \$1,000 pursuant to Tenn. Comp. R. & Reg. 0440—1—.14(2)).

Analysis: The Board agrees with this assessment.

Decision: Approved.

13. Case No.: L13-COS-RBS-2013008321

First License Obtained: 04/14/2012

License Expiration: 03/31/2014

**Complaint history: L12-COS-RBS-2012007541, closed
05/11/12 with a L.O.W.**

The Inspection Report and accompanying Notice of Violation alleges that the Respondent, a licensed cosmetology shop, did not have a manager present at the time of inspection during business hours in violation of Tenn. Comp. R. & Reg. 0440—02—.03(2) [RESPONSIBILITY FOR COMPLIANCE], and failed to display licenses at all work stations as required by Tenn. Code Ann. § 62-4-113(a)(1) (Display of license).

Recommendation: Authorize a formal hearing with authority to settle by consent order with a civil penalty of \$250.00 for each of the two (2) violations, for a total civil penalty of \$500.00.

Analysis: The Board agrees with this assessment.

Decision: Approved.

14. Case No.: L13-COS-RBS-2013005221

First License Obtained: 12/28/1992

License Expiration: 08/31/2013

Complaint history: None

The Notice of Violation alleges that the Respondent, a licensed manicure shop, employed a service provider that was not wearing an identification tag in violation of Tenn. Comp. R. & Reg. 0440—02—.08(1) [ATTIRE] and that the manager allowed the shop to be in possession of all necessary equipment for providing waxing services in violation of Tenn. Code Ann. § 62-4-119(2) (managers must assure that license-holders provide only services authorized by their licenses); no actual services were observed being provided. Additionally, the Notice of Violation alleges that tools were not properly cleaned and stored in violation of Tenn. Comp. R. & R. 0440—02—.13 [SANITATION AND DISINFECTION].

Recommendation: Authorize a Letter of Warning and close the case.

Analysis: The Board agrees.

Decision: Approved.

15. Case No.: L13-COS-RBS-2013005211

First License Obtained: 10/25/2012

License Expiration: 09/30/2014

Complaint history: None

The Notice of Violation alleges that the Respondent, a licensed cosmetology shop, is employing unlicensed individuals to provide services in violation of Tenn. Code Ann. § 62-4-119(1) (the owner and manager of a shop are responsible for assuring that all employees are properly licensed); in this case the individual observed providing services previously had a license that had expired on August 31, 2011. Additionally, the Notice

of Violation alleges that clean towels were not properly stored and hair brushes were not clean in violation of Tenn. Comp. R. & R. 0440—02—.13 [SANITATION AND DISINFECTION].

Recommendation: Authorize a Letter of Warning and close the case.

Analysis: The Board prefers a formal hearing with authority to settle by consent order with a civil penalty of \$250.00 for each of the two (2) violations, for a total civil penalty of \$500.00.

Decision: Proceed with formal disciplinary activity instead of a letter of warning.

16. Case No.: L13-COS-RBS-2013007591

First License Obtained: N/A

License Expiration: N/A

Complaint history: L12-COS-RBS-2012016661, closed
10/08/12 with a cease and desist
advisory notice.

The Notice of Violation alleges that the Respondent, a beauty supply business, is operating as a cosmetology shop in violation of Tenn. Code Ann. § 62-4-118(a) (Operation of a shop) by attempting to provide styling services on a customer's hair. The Respondent has provided statements from two witnesses that this was not the case, and that the only transactions occurring were the sale of wigs.

Recommendation: Authorize a CEASE AND DESIST order and close the case with a Letter of Warning.

Analysis: The Board agrees.

Decision: Approved.

17. Case No.: L13-COS-RBS-2013003081

First License Obtained: 07/25/1996

License Expiration: 09/30/2014

Complaint history: None

The Complaint alleges that the Respondent, a licensed cosmetology shop, committed misconduct in violation of Tenn. Code Ann. § 62-4-127(b)(2) (prohibiting unprofessional, immoral or dishonorable conduct) by using clippers that put cuts on the customer's son; and that the talcum powder was expired and machine blades and clippers were not clean in violation of Tenn. Comp. R. & R. 0440—02—.13 [SANITATION AND DISINFECTION]. Board office records indicate that a request for

response to the allegations was sent to the Respondent and later returned "unclaimed-unable to forward".

Recommendation: Close the case due to lack of evidence of probable cause and issue a Letter of Warning with the option to reconsider if new evidence arises.

Analysis: The Board agrees.

Decision: Approved.

18. Case No.: L13-COS-RBS-2013004421
First License Obtained: 12/02/2010
License Expiration: 04/30/2014
Complaint history: None

The Notice of Violation alleges that the Respondent, a licensed cosmetology shop, is employing two (2) unlicensed individuals to provide services in violation of Tenn. Code Ann. § 62-4-119(1) (the owner and manager of a shop are responsible for assuring that all employees are properly licensed).

Recommendation: Authorize a formal hearing with authority to settle by consent order with a civil penalty of \$250.00 for each of the two (2) violations, for a total civil penalty of \$500.00.

Analysis: The Board agrees with this assessment.

Decision: Approved.

19. Case No.: L13-COS-RBS-2013006681
First License Obtained: N/A
License Expiration: N/A
Complaint history: None

The Notice of Violation alleges that the Respondent is operating an unlicensed cosmetology shop in violation of Tenn. Code Ann. § 62-4-118(a) [operation of a shop]. No actual services were observed being provided at the time of the inspection.

Recommendation: Authorize a CEASE and DESIST advisory notice and close the case.

Analysis: The Board agrees.

Decision: Approved.

20. Case No.: L13-COS-RBS-2013006641

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

The Notice of Violation alleges that the Respondent is operating an unlicensed cosmetology shop in violation of Tenn. Code Ann. § 62-4-118(a) [operation of a shop]. No actual services were observed being provided at the time of the inspection.

Recommendation: Authorize a CEASE and DESIST advisory notice and close the case.

Analysis: The Board agrees.

Decision: Approved.

21. Case No.: L13-COS-RBS-2013006661

First License Obtained: 05/24/2005
License Expiration: 02/28/2014
Complaint history: None

The Notice of Violation alleges that the Respondent, a licensed manicure shop, has a waxing area with a hot wax machine set up with tools to perform waxing in violation of Tenn. Code Ann. § 62-4-119(2) (the owner and manager of a shop are responsible for assuring that all employees perform only services authorized by their licenses). Additionally, the Notice of Violation alleges that the area inspector observed unclean tools which were improperly stored and products that were not labeled; and further found cleaning products that are not EPA registered all in violation of Tenn. Comp. R. & R. 0440—02—.13 [SANITATION AND DISINFECTION]. The Notice further alleges that the inspection sheet was covered and not in a conspicuous place as required by Tenn. Comp. R. & R. 0440—02—.05(2).

Recommendation: Authorize a formal hearing with authority to settle by consent order with a civil penalty of \$250.00 for each of the five (5) violations, for a total civil penalty of \$1,250.00.

Analysis: The Board agrees with this assessment.

Decision: Approved.

22. Case No.: L13-COS-RBS-2013006701

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

The Notice of Violation alleges that the area inspector observed the Respondent shop was open for business without first being properly licensed in violation of Tenn. Code

Ann. § 62-4-118(a). The inspector states that a new shop application was submitted, but the shop owner cosmetology's license was expired. No actual services were observed being provided at the time of the inspection. Board office records indicate that the owner's license has been now renewed; however, the application to license the shop has not been yet received.

Recommendation: Authorize a CEASE and DESIST advisory notice and close the case.

Analysis: The Board agrees.

Decision: Approved.

23. Case No.: L13-COS-RBS-2013006721

First License Obtained: 07/20/2010

License Expiration: 06/30/2014

**Complaint history: L11-COS-RBS-2011019431 and
2011030531, closed 01/06/12
w/\$500.00 civil penalty paid;**

The Notice of Violation alleges that the area inspector observed a hot wax machine in the rear of a licensed manicure shop in violation of Tenn. Code Ann. § 62-4-119. No actual services were observed being provided at the time of the inspection.

Recommendation: Authorize a Letter of Warning and close the case.

Analysis: The Board agrees.

Decision: Approved.

24. Case No.: L13-COS-RBS-2013006781

First License Obtained: 04/24/1995

License Expiration: 01/31/2015

Complaint history: None

The Notice of Violation alleges that the Respondent, a license cosmetology shop, failed to ensure that all employees wore name tags in violation of Tenn. Comp. R. & Reg. 0440—02—.08(1) [ATTIRE]; failed to cover trash and soiled towels containers, and maintain adequate wet sterilizer as required by Tenn. Comp. R. & Reg. 0440—02—.07 [EQUIPMENT].

Recommendation: Authorize a Letter of Warning and close the case.

Analysis: The Board agrees.

Decision: Approved.

25. Case No.: L13-COS-RBS-2013005151

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

The Notice of Violation and accompanying inspection sheet alleges that the area inspector observed a licensed stylist practicing in unlicensed cosmetology shop in violation of Tenn. Code Ann. § 62-4-118(a). The inspector states that there was hair on the floor that would be in violation of Tenn. Comp. R. & R. 0440—02—.06 and he also checked other sanitation violations in the inspection sheet that would potentially violate Chapter 0440—2 [Sanitary Rules] of the Board's administrative rules. Because the Respondent is not currently licensed by the Board, the Board's authority to sanction the Respondent's conducts and assess a civil penalty is restricted to the unlicensed activity violation pursuant to 0440—1—.14 [CIVIL PENALTIES].

Recommendation: Authorize a formal hearing with authority to settle by consent order with a total civil penalty of \$1,000 pursuant to Tenn. Comp. R. & Reg. 0440—1—.14(2)).

Analysis: The Board agrees with this assessment.

Decision: Approved.

26. Case No.: L13-COS-RBS-2013006741

First License Obtained: 04/13/2012
License Expiration: 03/31/2014
Complaint history: None

The Notice of Violation alleges that the Respondent, a licensed manicurist/skincare shop, was employing an unlicensed individual to service a pedicure client in violation of Tenn. Code Ann. § 62-4-108 (License required to practice or teach). Additionally, the Notice alleges that files and drills were improperly stored in violation of Tenn. Comp. R. & Reg. 0440—02—.13 [SANITATION AND DISINFECTION] and that identification name tags were not being worn in violation of Tenn. Comp. R. & Reg. 0440—02—.08(1) [ATTIRE].

Recommendation: Authorize a formal hearing with authority to settle by consent order with a civil penalty of \$250.00 for each of the three (3) violations, for a total civil penalty of \$750.00.

Analysis: The Board agrees with this assessment.

Decision: Approved.

27. Case No.: L13-COS-RBS-2013006771

First License Obtained: 12/16/1992
License Expiration: 04/30/2014

Complaint history:

One (1) violation 12/31/97; \$500 CP

The Notice of Violation alleges that the area inspector observed four (4) individuals servicing clients' manicures in a licensed manicure shop – two of the individuals (who walked out of the shop) did not have a license posted in violation of Tenn. Code Ann. § 62-4-119(1) (the owner and manager of a shop are responsible for assuring that all employees are properly licensed); and that the other two individuals did not have identification name tags on, in violation of Tenn. Comp. R. & Reg. 0440—02—.08(1) [ATTIRE]. Additionally, the inspector states that the shop's inspection sheet was not posted in violation of Tenn. Comp. R. & Reg. 0440—02—.05(2)[INSPECTIONS]. The inspector also noted other sanitation violations in the inspection sheet all in violation of Chapter 0440—2 [Sanitary Rules] of the Board's administrative rules.

Recommendation: Authorize a formal hearing with authority to settle by consent order with a civil penalty of \$250.00 for each of the three (3) violations, for a total civil penalty of \$750.00.

Analysis: The Board agrees with this assessment.

Decision: Approved.

28. Case No.: L13-COS-RBS-2013006761

First License Obtained: 10/01/2002

License Expiration: 09/30/2014

**Complaint history: L06-COS-RBS-2006033371, closed
11/06/06 w/\$500 CP**

The Notice of Violation and accompanying inspection sheet alleges that the area inspector observed the shop manager and a stylist practicing on clients with expired licenses in violation of Tenn. Code Ann. §§ 62-4-108 and 62-4-119, and that the shop inspection sheet was not posted in violation of Tenn. Comp. R. & Reg. 0440—02—.05(2)[INSPECTIONS]. The inspector also noted other violations in the inspection sheet; including, but not limited to name tags were not worn in violation of Tenn. Comp. R. & Reg. 0440—02—.08(1) [ATTIRE] and other sanitation allegations that violates Chapter 0440—2 [Sanitary Rules] of the Board's administrative rules.

Recommendation: Authorize a formal hearing with authority to settle by consent order with a civil penalty of \$250.00 for each of the four (4) violations, for a total civil penalty of \$1,000.00.

Analysis: The Board agrees with this assessment.

Decision: Approved.

29. Case No.: L13-COS-RBS-2013007481
First License Obtained: 07/11/2011
License Expiration: 06/30/2013
Complaint history: None

The Notice of Violation alleges that the Respondent, a licensed manicure shop, failed to ensure that all personal licenses are prominently displayed at the work stations in violation of Tenn. Code Ann. §§ 62-4-113(1)(a) and 62-4-119; in this case the owner of the shop pulled eleven (11) licenses from behind the counter in addition to a licensee who did not have her license posted. The inspector also observed drill bits were improperly stored in violation of Tenn. Comp. R. & Reg. 0440—02—.13 [SANITATION AND DISINFECTION].

Recommendation: Authorize a formal hearing with authority to settle by consent order with a civil penalty of \$250.00 for each of the two (2) violations, for a total civil penalty of \$500.00.

Analysis: The Board agrees with this assessment.
Decision: Approved.

30. Case No.: L13-COS-RBS-2013005321
First License Obtained: 04/29/2010
License Expiration: 03/31/2014
**Complaint history: L12-COS-RBS-2012017261, closed
08/13/12 with a cease and desist
advisory notice**

The Complainant alleges that the Respondent, a licensed cosmetology shop, committed misconduct in violation of Tenn. Code Ann. § 62-4-127(b)(2) (prohibiting unprofessional, immoral or dishonorable conduct) by providing unprofessional eyebrow waxing service that resulted in the Complainant's skin being ripped off and the same wax stick being put back into the wax. Additionally, the Complainant states that the shop does not have a licensed aesthetician and that she is going to file a civil suit to recover her personal damages. The Respondent submits a letter addressing the allegations by stating that they always have a licensed aesthetician (who is listed in the shop inspection sheet) to perform waxing services; however, the licensee left the shop in February 2013 and they are currently suspending their waxing services until they find a replacement. The Respondent further states that they have enough supplies to perform the service with the sanitary measures and also to provide a safe job in regards to the health and safety of the clients, thus the allegation regarding double dipping the stick in the wax is unfounded.

Recommendation: Close the case due to lack of evidence of probable cause for discipline with the option to reconsider if new evidence arises.

Analysis: The Board agrees.

Decision: Approved.

31. Case No.: L13-COS-RBS-2013004431

First License Obtained: N/A

License Expiration: N/A

Complaint history: None

The Complainant alleges that the Respondent is doing hair from a private residence rather than a licensed cosmetology shop in violation of Tenn. Code Ann. § 62-4-118(a). The Complainant submitted a copy of a Facebook post that the Respondent advising her clients not to bring their children with them to their appointments in order to give them a "relaxing service". There is no evidence that the Respondent is providing hair and/or any other cosmetology services.

Recommendation: Close the case due to lack of evidence of probable cause for discipline with the option to reconsider if new evidence arises.

Analysis: The Board agrees.

Decision: Approved.

MOTION made by June Huceby and seconded by Muriel Smith approval of the legal report with changes to number 9 to remove the word NOT and number 15 to authorize a civil penalty of \$500.00 for each violation. Motion carried unanimously.

COSMETOLOGY CONSENT ORDERS- May 2013- Totaling \$7,750.00

MOTION made by June Huceby and seconded by Judy McAllister for approval of all consent orders. Motion carried unanimously.

OTHER BUSINESS-

Med Spa Study Group:

Senate Resolution 94 Committee Opinion was presented to the board for review and discussion. Rachel Powers advised the board of her position as the board's representative as well as her opinion that the general assembly would need to update the Cosmetology Act in order for the board to effectively regulate any activities in medical spas. All the Board members agree that they have to go by the laws as written and legal regulatory updates would be necessary. June Huceby stated the curriculum offered must be changed to apply in order to properly license and regulate this industry.

School Inspections:

Rachel Powers talked about how every school needs to be inspected in upper East, Tennessee and due to fact that there is not a full board, this area's schools have not recently been inspected. Rachel Powers

requested the Board's approval for an office file review as a substitute for the board member inspection. These schools would be sent a letter requesting information for the student's files to be sent in to the board office to review in order to meet the inspection requirements. Legal advised this was in the board's statutory discretion and further Rachel Powers advised it would fix the current issue of having no board member available for inspections.

MOTION made by Pearl Walker-Ali and seconded by Rufus Hereford to approve remote audit to East Tennessee schools. Motion carried unanimously.

PSI Testing Approval Process Changes:

Rachel Powers discussed PSI and the approval process changes the board office has been working on to improve the processes and decrease the time applicants wait to test and to receive licensure upon passage of all tests. Rachel Powers explained the PSI process will soon be updated to allow PSI to accept the applications electronically/online. This will drastically decrease applicant wait time as well as aid schools in the application processes.

Summer Institute Speakers and CE Speakers:

Rachel request that a board member come and speak on July 17th, 2013 for the Board of Education Summer Institute offered for instructors working in the public schools. The presentation will be held in Murfreesboro, Tennessee on MTSU campus. Ms. Pearl Walker-Ali volunteered to attend. The board voted unanimously to approve her attendance on its behalf.

June Board Meeting Date Change from June 3 to June 24th:

The Instructor seminar is in Memphis on June 9th and 10th. The June Board meeting is rescheduled to June 24th, 2013.

Motion to adjourn

MOTION to adjourn made by June Huckleby and seconded by Muriel Smith. Motion carried unanimously.

END OF DOCUMENT