



**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 February 1, 2021 at 9:00 a.m. via WebEx.

The Meeting was called to order by Chairman Ron Gillihan.

Ron Gillihan, Board Chairman welcomed everyone to the Board meeting taking place through WebEx.

Roxana Gumucio, Executive Director, called roll. The following members participated telephonically: Kelly Barger, Anita Charlton, Frank Gambuza, Ron Gillihan, Judy McAllister, Patricia Parsons, Janie Ross, Becky Russell, Amy Tanksley and Susan Witcher.

Not available: Yvette Granger and Mona Sappenfield.

Others participating: Roxana Gumucio, Executive Director and Hugh Cross, Attorney for the Board.

STATEMENT OF NECESSITY-

Attorney Hugh Cross read the statement of necessity for the record. Judy McAllister motioned to accept the statement of necessity. This was seconded by Kelly Barger. The motion carried by unanimous roll call vote.

MINUTES-

Minutes for the December 7, 2020 board meetings were submitted for changes and/or approval.

Motion made by Becky Russell and seconded by Amy Tanksley to approve the December 2020 minutes. The motion carried by unanimous roll call vote.

2021 Legislative Updates:

Mr. Hugh Cross updated the board on the status of the rulemaking hearing from October 5, 2020. Mr. Cross provided information regarding HB0120/SB0216.

PRESENTED BEFORE THE BOARD-

Tennessee State University, Avon campus: Ms. Tiffany Terrell submitted information for the instructor continuing education seminar. They are requesting to have the session on Sunday, August 1 and Monday, August 2, 2021. The session is planned to be in virtual at this time

Motion made by Judy McAllister and seconded by Amy Tanksley to approve the 2021 session and requested dates. Motion carried unanimously.

The Black Pearl Nail Academy, LLC. – School Change of Location

Ms. Duriya Caldwell participated to answer any questions for the board. The school is located in Memphis. The school is 4,000 sq. ft. The application, floor plan and updated student agreement were all received timely.

MOTION made by Amy Tanksley and seconded by Janie Ross to approve the change in location pending an inspection by a field inspector. The motion carried by unanimous roll call vote.

Premier Nail Academy – School Change of Location

Ms. Keisha Scales participated to answer any questions for the board. The school is located in Memphis. The new location is on the second floor of the same building. The school is 2,280 sq. ft. The application, floor plan and updated student agreement were all received timely.

MOTION made by Amy Tanksley and seconded by Judy McAllister to approve the change in location pending an inspection by a field inspector. The motion carried by unanimous roll call vote.

Douglas J. Aveda Institute – New Barber School

Ms. LaJanis Allen participated to answer any questions for the board. The school is 19,000 sq. ft. The new school application, curriculum, blank enrollment agreement, floor plan, 15 student contracts and contingency plan were all received timely.

MOTION made by Frank Gambuzza and seconded by Judy McAllister to approve the new school pending required updates and an inspection by a field inspector. The motion carried by unanimous roll call vote.

Jacqui's Global Cosmetology and Barber Academy – New Cosmetology School

Ms. Jacqueline Sanders participated to answer any questions for the board. The school is in Shelbyville and it is 3,300 sq. ft. The new school application, curriculum, blank enrollment agreement, floor plan and contingency plan were all received timely.

MOTION made by Patricia Parsons and seconded by Judy McAllister to approve the new school pending required updates and an inspection by a field inspector and board member. The motion carried by unanimous roll call vote.

Hunts Barber Academy – New Barber School

Mr. Brannon Hunt participated to answer any questions for the board. The school is 1,900 sq. ft. The new school application, curriculum, blank enrollment agreement, floor plan, 15 student contracts and contingency plan were all received timely.

MOTION made by Patricia Parsons and seconded by Janie Ross to deny the new school application and request the changes be presented at the April Board meeting. The motion carried by unanimous roll call vote.

Global Beauty & Barber Institute – School Change of Location, Cosmetology and Barber

Ms. Ciara Gordon participated to answer any questions for the board. The school is located in Goodlettsville. The school is 7,025 sq. ft. The application, floor plan and updated student agreement were all received timely.

MOTION made by Amy Tanksley and seconded by Judy McAllister to approve the change in location pending an inspection by a field inspector. The motion carried by unanimous roll call vote.

DCI Academy – School Change of Location, Specialty, and Cosmetology Apprenticeship

Ms. Destiny Cox participated to answer any questions for the board. The school is located in Memphis. The school is a total of 1,800 sq. ft. The application, floor plan and updated student agreement were all received timely.

MOTION made by _____ and seconded by _____ to approve the change in location pending an inspection by a field inspector. The motion carried by unanimous roll call vote.

D.A.Y. College of Cosmetology was approved at the December 2020 meeting pending updates. The school was not able to be inspected by a board member given the distance, the holidays and COVID19. The board's decision for other change of locations was to only require a field inspector. The field inspection completed January 5th was very thorough and acceptable for approving the new location.

MOTION made by Patricia Parsons and seconded by Judy McAllister to confirm the approval of the change in location. The motion carried by unanimous roll call vote.

LEGAL REPORT- STAFF ATTORNEY

The State Board of Cosmetology and Barber Examiners met to review the allegations of 68 complaints and make recommendations to the Board. Attorney for the program, Michael Underhill presented the legal report:

COSMETOLOGY CASES

1. Case No.: COS- 2020080381

First License Obtained: 11/29/1980
License Expiration: 04/30/2022
Complaint History: None

This 10-7-20 annual inspection revealed an expired shop license (expiration 4-30-20) and failure of responsibilities of owner or manager of a shop. A Notice of violation was issued. This Respondent is the shop owner/manager. The shop license is still expired and the civil penalty has already been assessed against the shop. This is a duplicitous penalty against the shop and its owner.

Recommendation: Closure.

Decision: Approved

2. Case No.: COS- 2020079561

First License Obtained: 08/09/2005
License Expiration: 12/31/2021
Complaint History: None

This 10-7-20 annual inspection revealed an expired shop license (expiration 12-31-19) and failure of responsibilities of owner or manager of a shop. A Notice of violation was issued. This Respondent is the shop. The shop license has since been renewed until 12-31-21.

Recommendation: Letter of warning.

Decision: Approved

3. Case No.: COS-2020080521

First License Obtained: 06/17/2015

License Expiration: 06/30/2021

Complaint History: None

This 10-9-20 annual inspection revealed Respondent shop owner was allowing an unknown and unlicensed individual to practice in the shop (\$1,000.00), failure of responsibilities of owner or manager of a shop, offering/performing services not authorized by a license (\$500.00), and several unsanitary conditions. A Notice of Violation was issued.

Recommendation: Letter of warning for unsanitary conditions and authorize formal hearing. Authorize settlement by consent order for the civil penalty of \$1,500.00.

Decision: Approved

4. Case No.: COS-2020080441

First License Obtained: N/A

License Expiration: N/A

Complaint History: None

This 10-9-20 annual inspection revealed an unlicensed shop due to new ownership (\$1,000.00). A Notice of violation was issued. This Respondent is the shop. The Respondent shop still does not have a license.

Recommendation: Authorize formal hearing. Authorize settlement by consent order for the civil penalty of \$1,000.00.

Decision: Approved

5. Case No.: COS- 2020088691

First License Obtained: 06/23/2017

License Expiration: 05/31/2021

Complaint History: 2018066591, closure

This 10-9-20 annual inspection revealed two (2) persons practicing while unlicensed (\$2,000.00) and the owner/manager was not present at the time of inspection. A Notice of Violation was issued. This Respondent is the shop.

Recommendation: Authorize formal hearing. Authorize settlement by consent order for the civil penalty of \$2,000.00.

Decision: Authorize formal hearing. Authorize settlement by consent order for the civil penalty of \$2,500.00.

6. Case No.: COS- 2020088751

First License Obtained: N/A

License Expiration: N/A

Complaint History: None

Please see fact pattern above for Item #5 above. This Respondent is one of the unlicensed individuals practicing in the shop (\$1,000.00).

Recommendation: Authorize formal hearing. Authorize settlement by consent order for the civil penalty of \$1,000.00.

Decision: Approved

7. Case No.: COS- 2020081671

First License Obtained: 03/31/2016

License Expiration: 03/31/2020 **Complaint History**

2017070141, closure with request for inspection;

2018079361, closure

This 10-15-20 annual inspection revealed an expired shop license (expiration 3-31-20) (\$100.00) and failure of responsibilities of owner or manager of a shop. A Notice of violation was issued. This Respondent is the shop. The shop license is still expired.

Recommendation: Authorize formal hearing. Authorize settlement by consent order for the civil penalty of \$100.00.

Decision: Approved

8. Case No.: COS- 2020081691

First License Obtained: 08/13/2019

License Expiration: 08/31/2021

Complaint History: None

Please see fact pattern for Item #7 above. This Respondent is the shop owner. This would be a duplicitous penalty against the shop and its owner.

Recommendation: Closure.

Decision: Approved

9. Case No.: COS- 2020083601

First License Obtained: 10/02/2019

License Expiration: 09/30/2021

Complaint History: None

This 10-23-20 consumer complaint alleges unlicensed individual activity in the Respondent shop. Inspection revealed an unlicensed individual (\$1,000.00) in the shop practicing on the public. A Notice of Violation was issued.

Recommendation: Authorize formal hearing. Authorize settlement by consent order for the civil penalty of \$1,000.00.

Decision: Approved

10. Case No.: COS- 2020084211

First License Obtained: 04/24/2017

License Expiration: Registered

Complaint History: None

This 10-26-20 student complaint alleges (1) an instructor is teaching without a degree but being paid as a substitute, (2) the same instructor makes rude remarks to students, (3) another instructor only comes out of her office to smoke, and (4) students are being criticized for not knowing how to perform services they have never been taught. Respondent school states (1) the instructor is licensed and currently enrolled in junior college, (2) the alleged rude comments were unfounded, (3) the school never had a previous complaint from complainant about the other instructor's smoke breaks or break time, and (4) the alleged criticism was unfounded. Further, Respondent school states they have met with the student and addressed any concerns regarding a lack of hands-on training during the coronavirus pandemic.

Recommendation: Closure.

Decision: Approved

11. Case No.: COS- 2020084881

First License Obtained: 06/18/2018

License Expiration: 09/01/2021

Complaint History: 2019036861, 2019055511, 2019050661, 2019095181, 2019099931, closure

This 10-28-20 student complaint alleges several contractual violations of her apprenticeship agreement. The Respondent school states they met with the Complainant/student and her mother on 10-28-20 and reached a mutual agreement regarding forms of payment for contract overages as well as the student's potential graduation date; the student was provided her kit timely. This is a contractual matter outside the scope of the boards' authority. Disciplinary counsel attempted contact with the complainant and left a voicemail on 12-7-20; complainant never returned the phone call.

Recommendation: Closure.

Decision: Approved

12. Case No.: COS-2020085271

First License Obtained: 05/25/2006

License Expiration: 05/31/2022

Complaint History: None

This 10-29-20 consumer complaint alleges unsanitary conditions. Inspection revealed no evidence to substantiate the allegation. A Notice of Violation was not issued.

Recommendation: Closure.

Decision: Approved

13. Case No.: COS-2020085911

First License Obtained: 05/02/2006

License Expiration: 05/31/2022

Complaint History: None

This 10-30-20 annual inspection revealed an expired shop license (expiration 5-31-20) and failure of responsibilities of owner or manager of a shop. A Notice of Violation was issued. This Respondent is the owner of the shop. The civil penalty has been assessed to the shop. The shop license has since been renewed until 5-31-22. This would be a duplicitous civil penalty against the shop and its owner for an expired shop license.

Recommendation: Closure.

Decision: Approved

14. Case No.: COS-2020086641

First License Obtained: 04/01/1999

License Expiration: 03/31/2021

Complaint History: None

This 10-30-20 annual inspection revealed an expired shop license (expiration 2-28-20) and failure of responsibilities of owner or manager of a shop. A Notice of Violation was issued. This Respondent is the designated manager of the shop.

Recommendation: Authorize formal hearing. Authorize settlement by consent order for the civil penalty of \$100.00.

Decision: Approved

15. Case No.: COS-2020086301

First License Obtained: N/A

License Expiration: N/A

Complaint History: None

This 11-3-20 consumer complaint alleges unlicensed individual activity. When the inspector went to the address listed in the complaint, he saw no signage for the address listed and no one answered the door when he knocked. A Notice of Violation was not issued.

Recommendation: Closure.

Decision: Approved

16. Case No.: COS- 2020087251

First License Obtained: N/A

License Expiration: N/A

Complaint History: None

This 11-5-20 competitor complaint alleges unlicensed individual activity with screenshots in support thereof. Inspector tried to make personal as well as telephonic contact with Respondent individual, but was unsuccessful. Respondent individual did not return a phone call to inspector after leaving a card on the door of Respondent individual's apartment. A Notice of Violation was not issued.

Recommendation: Letter of warning regarding unlicensed activity and flag.

Decision: Approved

17. Case No.: COS- 2020087261

First License Obtained: N/A

License Expiration: N/A

Complaint History: None

This 11-5-20 competitor complaint alleges unlicensed individual activity with screenshots in support thereof. Inspection revealed the address listed in the complaint did not contain a salon, but Respondent individual did state she did not have a cosmetology license but had performed some cosmetology services. A Notice of Violation was not issued.

Recommendation: Letter of warning regarding unlicensed activity and flag.

Decision: Approved

18. Case No.: COS- 2020087461

First License Obtained: 04/08/2019

License Expiration: 03/31/2021

Complaint History: None

This 11-6-20 consumer complaint alleges unsanitary conditions. Inspection revealed no evidence to substantiate the allegation. A Notice of Violation was not issued.

Recommendation: Closure.

Decision: Approved

19. Case No.: COS- 2020089071

First License Obtained: 08/30/2017

License Expiration: 08/31/2021

Complaint History: None

This 11-10-20 annual inspection revealed an expired shop license (expiration 11-30-19) and failure of responsibilities of owner or manager of shop. A Notice of Violation was issued. This Respondent is the designated manager of the shop who was cited for failure of responsibilities of owner or manager of a shop.

Recommendation: Authorize formal hearing. Authorize settlement by consent order for the civil penalty of \$100.00.

Decision: Approved

20. Case No.: COS- 2020088451

First License Obtained: 12/08/2014

License Expiration: 12/31/2022

Complaint History: None

This 11-11-20 consumer complaint alleges unlicensed individual activity from an unlicensed shop. Inspection revealed Respondent individual is personally licensed and had vacated the shop address at the beginning of the pandemic shutdown. A Notice of Violation was not issued.

Recommendation: Closure.

Decision: Approved

21. Case No.: COS- 2020088921

First License Obtained: 03/16/1999

License Expiration: 03/31/2021

Complaint History: 201703379, closed by Agreed Citation and \$100.00 civil penalty payment

This 11-12-20 consumer complaint alleges dissatisfaction with the price paid for a service performed and price gouging. Respondent provided a response with a social media screenshot from Complainant where Complainant was happy with the service provided by Respondent. Pricing issues for services rendered are outside the scope of the Board's authority.

Recommendation: Closure.

Decision: Approved

22. Case No.: COS- 2020088931

First License Obtained: 10/02/2013

License Expiration: 09/30/2021

Complaint History: None

This 11-12-20 anonymous consumer complaint alleges Respondent shop is forbidding pandemic mask usage in the shop and against Covid protocols.

Recommendation: Closure.

Decision: Approved

23. Case No.: COS- 2020089291

First License Obtained: N/A

License Expiration: N/A

Complaint History: None

This 11-13-20 consumer complaint alleges unlicensed individual activity from an unlicensed home. Inspector presented to address listed in the complaint and spoke with Respondent individual, who stated she does provide one-on-one training for eyelashes and that she was a "licensee" of the state of Tennessee; Respondent individual believed she could thus offer one-on-one training for a fee. Respondent individual was counselled regarding offering classes without a license, and a Notice of Violation was not issued.

Recommendation: Letter of instruction regarding licensure procedure in order to offer cosmetology classes.

Decision: Approved

24. Case No.: COS-2020089411

First License Obtained: 09/19/2018
License Expiration: 09/30/2022
Complaint History: None

This 11-14-20 consumer complaint alleges wanting a refund for unsatisfactory service/injury and unsanitary conditions. The refund (contract)/injury (personal injury) issues are outside the scope of the board's authority. Inspection revealed minor sanitary issues that were corrected at the time of inspection. A Notice of Violation was not issued.

Recommendation: Closure.

Decision: Approved

25. Case No.: COS- 2020089401

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

This 11-14-20 consumer complaint alleges unlicensed mobile individual activity in Tennessee by the North Carolina Respondent individual with screenshots in support thereof. Respondent individual states she does make-up for friends, neighbors, family and acquaintances.

Recommendation: Letter of warning that a Tennessee cosmetology license is required in order to provide services in the state.

Decision: Approved

26. Case No.: COS- 2020090991

First License Obtained: 03/15/2017
License Expiration: 10/31/2022
Complaint History: None

This 11-22-20 consumer complaint alleges unsanitary conditions. Inspection revealed no evidence of unsanitary conditions. A Notice of Violation was not issued.

Recommendation: Closure.

Decision: Approved

27. Case No.: COS- 2020091031

First License Obtained: 09/20/1979
License Expiration: 01/31/2020
Complaint History: None

This 11-22-20 consumer complaint alleges unlicensed individual activity from an unlicensed home. Inspection revealed no evidence to substantiate the allegations. A Notice of Violation was not issued.

Recommendation: Closure.

Decision: Approved

28. Case No.: COS- 2020091081

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

This 11-23-20 consumer complaint alleges unlicensed individual activity from an unlicensed home. Inspection revealed some internet research of Respondent providing services without a specific location stated; inspector went to address listed in the complaint and had to leave a card

on the door. Inspector did not receive a return telephone call. A Notice of Violation was not issued.

Recommendation: Letter of warning and flag.

Decision: Approved

29. Case No.: COS- 2020091111

First License Obtained: 09/10/2013

License Expiration: 09/30/2021

Complaint History: None

This 11-23-20 consumer complaint alleges Respondent, an esthetician at a salon, is performing chemical peels outside the scope of her license (\$500.00) at clients' homes during the pandemic with chemical peel products stolen from the salon. Disciplinary counsel spoke with Complainant and witness to corroborate the complaint as well as to receive screenshots of Respondent advertising the chemical peel services, performing the service at Complainant's home, and the Venmo cash transaction for the service. Complainant/witness are available and willing to testify at a hearing, if necessary.

Recommendation: Authorize formal hearing. Authorize settlement by consent order for the civil penalty of \$500.00.

Decision: Approved

30. Case No.: COS- 2020091191

First License Obtained: 08/19/2020

License Expiration: 08/31/2022

Complaint History: None

This 11-23-20 consumer complaint alleges unlicensed individual activity. Inspection revealed no evidence of unlicensed individual activity. A Notice of Violation was not issued.

Recommendation: Closure.

Decision: Approved

31. Case No.: COS- 2020091651

First License Obtained: 09/06/2013

License Expiration: 08/31/2021

Complaint History: 201402534, closed by Agreed Citation and payment of \$1,000 civil penalty; 2016040561, closure; 2016041861, closed by Consent Order and payment of \$4,500 civil penalty; 2018071031, closure

This 11-25-20 consumer complaint alleges unlicensed individual activity and unsanitary conditions. Inspection revealed no evidence to substantiate the complaint. A Notice of Violation was not issued.

Recommendation: Closure.

Decision: Approved

32. Case No.: COS-2020092201

First License Obtained: 01/31/2018

License Expiration: 09/01/2021

Complaint History: 2018066661, closure; 2019094801, closure

This 11-30-20 anonymous complaint alleges unsanitary conditions. Inspection revealed no evidence of unsanitary conditions. A Notice of Violation was not issued.

Recommendation: Closure.

Decision: Approved

33. Case No.: COS-2020092981

First License Obtained: N/A

License Expiration: N/A

Complaint History: None

This 12-1-20 anonymous consumer complaint alleges unlicensed individual activity from an unlicensed home with screenshots of same but indicating no location address on the website. Inspector went to apartment address listed in complaint and left his card in the door; apartment occupant contacted investigator back and denied any knowledge of unlicensed activity at the apartment.

Recommendation: Close and flag.

Decision: Approved

34. Case No.: COS- 2020092571

First License Obtained: 04/14/2004

License Expiration: 12/31/2021

Complaint History: None

This 12-2-20 consumer complaint alleges Respondent shop has management and employees that are positive with CoVid-19 symptoms. Respondent states as soon as they found out employees were positive, the same employees were quarantined from the shop until they could produce negative Covid tests; further, the shop was professionally cleaned/disinfected and any HVAC conditions were addressed. Further, the shop was inspected by the local health department and allowed to stay open. Local health department/business pandemic issues are outside the scope of the Board's authority.

Recommendation: Closure.

Decision: Approved

35. Case No.: COS-2020092631

First License Obtained: 04/14/2004

License Expiration: 12/31/2021

Complaint History: None

This 12-2-20 employee complaint alleges essentially the same complaints/fact as stated in Item #34 above regarding the Respondent shop. Respondent shop provided a similar response to the allegations as in Item # 34 above. Local health department/business pandemic issues are outside the scope of the Board's authority.

Recommendation: Closure.

Decision: Approved

36. Case No.: COS-2020092591

First License Obtained: 05/06/2015

License Expiration: 05/31/2021

Complaint History: None

This 12-2-20 competitor complaint alleges Respondent had damaged a client's hair during an 11-21-20 service with screenshots of same. Further, Complainant provided hearsay testimony from

client that Respondent may have been under the influence of drugs at the time of the service. Criminal and negligence matters are outside the scope of the Board's authority.

Recommendation: Closure.

Decision: Approved

37. Case No.: COS- 2020093551

First License Obtained: 09/17/2007

License Expiration: 09/30/2017

Complaint History: 2009016971, closed with no further action; 2013019241, closed by an Amended Consent Order and payment of \$750.00 civil penalty; 20150226521, closed by Consent Order and payment of \$125.00; 2018082921, Letter of Instruction

This 12-4-20 annual inspection revealed an expired shop license (expiration 9-30-17) and four (4) persons practicing hair braiding without a hair braiders certificate (\$4,000.00). A Notice of Violation was issued. The shop license remains expired. This is the Respondent shop's second offense for an expired shop license (\$500.00). This is the Respondent shop's second offense for having unlicensed/uncertified persons practicing in the shop.

Recommendation: Authorize formal hearing. Authorize settlement by consent order for the civil penalty of \$4,500.00.

Decision: Approved

38. Case No.: COS-2020093591

First License Obtained: 03/14/2005

License Expiration: 03/31/2021

Complaint History: 20150226541, closed by Consent Order and payment of \$125.00

Please see fact pattern for Item #37 above. This Respondent is the owner of the shop. This would be a duplicitous civil penalty against the shop and its owner.

Recommendation: Closure.

Decision: Approved

39. Case No.: COS- 2020093351

First License Obtained: 03/28/2011

License Expiration: 09/01/2021

Complaint History: 2019008951, closure; 2019006161, closure; 2020073161, closure

This 12-7-20 student complaint alleges Respondent school will not allow her to graduate until she pays her remaining tuition (\$3,650.00) in full. Respondent school states Complainant was a student at the Respondent school until December 2020 and had lost her financial aid in September 2020 due to poor attendance (providing documentation of same). This resulted in Complainant having a balance of \$3,650.00 upon graduation. This is a contractual matter outside the scope of the Board's authority.

Recommendation: Closure.

Decision: Approved

40. Case No.: COS-2020093941

First License Obtained: 12/14/2020

License Expiration: 12/31/2022

Complaint History: None

This 12-8-20 competitor complaint alleges unlicensed individual activity from an unlicensed home. Inspection revealed no evidence of unlicensed individual activity from an unlicensed home. A Notice of Violation was not issued.

Recommendation: Closure.

Decision: Approved

41. Case No.: COS- 2020094481

First License Obtained: N/A

License Expiration: N/A

Complaint History: None

This 12-9-20 new owner inspection revealed Respondent employee with a posted license number which the inspector verified in CORE was assigned to another person's "application in process" and, in the opinion of the inspector, the posted license/license number "appeared to be fake." A Notice of Violation was issued to the Respondent employee for an unlicensed individual practicing, although at the time of the inspection the Respondent employee was not actively practicing on a client that the inspector witnessed. This same Respondent employee had an earlier Notice of Violation from last year for the same licensing issue but at a different shop location, and the complaint was authorized by the board to be referred to local law enforcement/district attorney office for fraud charges; however, local law enforcement/district attorney could not successfully go forward on a potential fraud case since the Respondent was providing an actual service for money which would hamper a fraud criminal charge.

Recommendation: Authorize formal hearing. Authorize settlement by consent order for the civil penalty of \$1,000.00.

Decision: Approved

42. Case No.: COS-2020095681

First License Obtained: N/A

License Expiration: N/A

Complaint History: None

This 12-15-20 anonymous complaint alleges Respondent is unlicensed and practicing (through on-line bookings) under unsanitary conditions. Inspector went to Respondent's last known address and spoke with Respondent's mother, showing Respondent's mother the on-line service that Respondent was providing. Inspector counselled Respondent's mother the Respondent would need to cease providing services until she could be appropriately state-licensed. Inspector left a card with Respondent's mother in case Respondent had any further questions. A Notice of Violation was not issued.

Recommendation: Close and flag.

Decision: Approved

43. Case No.: COS- 2020096611

First License Obtained: 07/09/2019

License Expiration: 06/30/2021

Complaint History: 202000667, closed with Letter of Warning; 2020038221 closed with Letter of Warning; 2020065241, closure

This 12-20-20 consumer complaint alleges unlicensed individual activity and unsanitary conditions in the Respondent shop. Inspection revealed unsanitary conditions and an unlicensed individual practicing on clients (\$1,000.00). A Notice of Violation was issued on 12-23-20.

This is the Respondent's second offense for unlicensed persons practicing and for unsanitary conditions (\$500.00).

Recommendation: Authorize formal hearing. Authorize settlement by consent order for the civil penalty of \$1,500.00.

Decision: Approved

44. Case No.: COS- 2020097341

First License Obtained: 07/09/2019

License Expiration: 06/30/2021

Complaint History: 202000667, closed with Letter of Warning; 2020038221 closed with Letter of Warning; 2020065241, closure

This 12-23-20 consumer complaint alleges unlicensed individual activity and unsanitary conditions in the same Respondent shop as in Item #43 above. This is a duplicitous complaint.

Recommendation: Closure.

Decision: Approved

45. Case No.: COS- 2020097941

First License Obtained: 03/21/2019

License Expiration: 03/31/2021

Complaint History: 202000669, closed by Agreed Citation and payment of \$500.00 civil penalty; 202003851, closed by Agreed Citation and payment of \$1,000 civil penalty; 2020038951, closure

Please see fact patterns for Items #43 and #44 above. This Respondent is the owner of the shop. This would be a duplicitous civil penalty against the shop and its owner.

Recommendation: Closure.

Decision: Approved

BARBER CASES

46. Case No.: BAR- 2020084021

First License Obtained: 09/16/2020

License Expiration: 11/30/2022

Complaint History: None

This 10-25-20 consumer complaint alleges unlicensed individual activity and requesting a refund for a bad service. Inspection revealed two (2) persons practicing on clients without a valid license. A Notice of Violation was issued for same (times two) (\$2,000.00) and failure of responsibility of owner or manager of a shop. This Respondent is the shop.

Recommendation: Authorize formal hearing. Authorize settlement by consent order for the civil penalty of \$2,000.00.

Decision: Approved

47. Case No.: BAR- 2020086561

First License Obtained: 07/27/2005

License Expiration: 07/31/2021

Complaint History: None

Please see the above fact pattern for Item #46 above. This Respondent is the shop owner. This would be a duplicitous penalty against the shop and its owner.

Recommendation: Closure.

Decision: Approved

48. Case No.: BAR- 2020086591

First License Obtained: 03/31/2014

License Expiration: 03/31/2016

Complaint History: None

Please see the fact pattern for Item #46 above. This Respondent is one of the persons practicing without a valid license (expiration 3-31-16) in the shop. The individual license remains expired.

Recommendation: Authorize formal hearing. Authorize settlement by consent order for the civil penalty of \$1,000.00.

Decision: Approved

49. Case No.: BAR- 2020087581

First License Obtained: 03/25/1976

License Expiration: 11/30/2022

Complaint History: 2019076051, closure; 2020059681, closure

This 10-28-20 anonymous consumer complaint alleges Respondent shop is not wearing masks nor sanitizing their areas after use. This is a matter for the local or county public health agency.

Recommendation: Closure.

Decision: Approved

50. Case No.: BAR- 2020087711

First License Obtained: 12/23/2013

License Expiration: 12/31/2021

Complaint History: None

This 11-9-20 anonymous complaint alleges unlicensed individual activity from an unlicensed home shop. Inspection revealed Respondent individual was licensed and was only servicing family due to a fear of the coronavirus. A Notice of Violation was not issued.

Recommendation: Closure.

Decision: Approved

51. Case No.: BAR- 2020088731

First License Obtained: N/A

License Expiration: N/A

Complaint History: None

This 11-9-20 annual inspection revealed an unlicensed individual practicing in a shop. A Notice of Violation was issued. The shop has already been assessed and paid the civil penalty. This Respondent is the owner of the shop. This would be a duplicitous penalty against the shop and its owner.

Recommendation: Closure.

Decision: Approved

52. Case No.: BAR- 2020089251

First License Obtained: 11/14/2001

License Expiration: 09/30/2021

Complaint History: None

This 11-13-20 anonymous consumer complaint alleges unlicensed individual activity at the Respondent shop. Inspection revealed the unlicensed individual in question had been let go. A Notice of Violation was not issued.

Recommendation: Letter of warning regarding the use of unlicensed individuals.

Decision: Approved

53. Case No.: BAR- 2020090791

First License Obtained: 05/22/2012

License Expiration: 04/30/2020

Complaint History: 2013007431, closed by Consent Order and payment of \$500.00 civil penalty; 2016006431, closed by Consent Order and payment of \$125.00 civil Penalty; 2018087851, File a Notice and Order of Voluntary Dismissal without prejudice with the APD and have the ALJ sign same, dismissing the NOHC. Then, closure.

This 11-19-20 annual inspection revealed an expired shop license (expiration 4-30-20) and the shop owner was not present at the time of inspection. A Notice of Violation was issued. This is Respondent shop's second offense for an expired shop license (\$500.00) and the shop owner not being present at the time of inspection (\$1,000.00). The shop license remains expired.

Recommendation: Authorize formal hearing. Authorize settlement by consent order for the civil penalty of \$1,500.00.

Decision: Approved

54. Case No.: BAR- 2020092621

First License Obtained: 08/12/2016

License Expiration: 08/31/2022

Complaint History: 201800080, closed with Letter of Warning

This 12-2-20 city complaint alleges Respondent is operating its barber business without running water and Respondent is residing in the business. Inspection revealed Respondent's individual license was expired (expiration date not stated) and thus there was not an owner or manager present at the time of inspection; further, there was no running water at the business. A Notice of Violation was issued for the above infractions. Respondent's individual license has now been renewed until 8-31-22, which was the underlying reason for Respondent being "not present" at the time of inspection.

Recommendation: Letter of warning regarding equipment not in working order or not present (water)/residing in the business. Letter of warning regarding expired license that was recently renewed.

Decision: Approved

55. Case No.: BAR- 2020096971

First License Obtained: 06/13/2017

License Expiration: 06/30/2019

Complaint History: 2020003101, Formal Charges Authorize

This 12-15-20 annual inspection revealed unsanitary conditions, the previous inspection sheet not displayed, an expired shop license (expiration 6-30-19) and failure of responsibilities of

owner of a shop. The shop license is still expired. This is the second offense for the same shop license being expired (\$500.00). This Respondent is the shop.

Recommendation: Letter of warning for the unsanitary conditions/previous inspection sheet not displayed. Authorize formal hearing. Authorize settlement by consent order for the civil penalty of \$500.00.

Decision: Approved

REPRESENT CASES

56. Case No.: COS-2019058121

First License Obtained: N/A

License Expiration: N/A

Complaint history: None

This matter was previously presented to the Board at its December 9, 2019 meeting as follows:
Pursuant to inspection, this individual was providing services without a license.

Recommendation: Authorize formal hearing. Authorize settlement by consent order with \$1000.00 civil penalty.

Decision: Approved

Update: A Notice of Hearing and Charges was filed against the Respondent, an Administrative Law Judge was assigned, and service was attempted at the last known address in Tennessee. It was later ascertained that Respondent now lives in Dallas, Texas, so personal service will be an issue at a hearing.

New Recommendation: File a Notice and Order of Voluntary Dismissal with the Administrative Procedures Division, and after the Administrative Law Judge signs the Order, then close the file.

Decision: Approved

57. Case No.: BAR- 2018069611

First License Obtained: 08/17/2015

License Expiration: 08/31/2019

Complaint history: None

This matter was previously presented to the Board at its January 28, 2019 meeting as follows:
The Respondent's individual license is currently under summary suspension and the Respondent's criminal charges remain pending with new court dates in March 2019. The shop is closed and owner's license is under summary suspension.

Recommendation: Individual license in litigation monitoring and closure of the shop complaint.

Decision: Approved

Update: Respondent has been found guilty of a felony drug offense and was sentenced to six (6) years in prison.

New Recommendation: Authorize formal hearing. Authorize settlement by consent order for the voluntary revocation/forfeiture of master barber license.

Decision: Approved

58. Case No.: COS- 2020066371

First License Obtained: 08/16/2012

License Expiration: 08/31/2022

Complaint History: None

This matter was previously presented to the Board at its December 7, 2020 meeting as follows:
Please see 8-26-20 fact pattern for Item #9 above regarding the shop. This Respondent is the owner/manager cited for failure of responsibilities of owner or manager of a shop due to the expired shop license. A Notice of Violation was issued.

Recommendation: *Authorize formal hearing. Authorize settlement by consent order for the civil penalty of \$100.00.*

Decision: *Approved*

Update: The \$100.00 civil penalty was already assessed to the shop in COS-2020066351. This would be a duplicitous penalty against the shop and its Respondent owner.

New Recommendation: Closure.

Decision: Approved

59. Case No.: COS-2020045041

First License Obtained: N/A

License Expiration: N/A

Complaint History: None

This matter was previously presented to the Board at its October 5, 2020 meeting as follows:
Please see fact pattern in #42 below. This Respondent is the unlicensed individual. A Notice of Violation was issued for same.

Recommendation: *Authorize formal hearing. Settlement by consent order with the civil penalty of \$1,000.00.*

Decision: *Approved*

Update: This is a case of mistaken identity/identity theft. The real Respondent (living in Santa Barbara, California) contacted Disciplinary Counsel and provided sufficient proof that the unknown person cited was not the real Respondent. Further, this would have been a service issue (California) in the future.

New Recommendation: Closure.

Decision: Approved

60. Case No.: BAR-2019075751

First License Obtained: N/A

License Expiration: N/A

Complaint history: None

This matter was previously presented to the Board at its February 3, 2020 meeting as follows:
Pursuant to inspection, also referred to in 61—BAR-2019075771, 62—BAR-2019075801, and 64—BAR-2019075721, this complaint alleges unlicensed activity.

Recommendation: *Authorize formal hearing. Authorize settlement by consent order with \$1000.00 civil penalty against this Respondent who is one of the three unlicensed individuals found in the shop.*

Decision: *Authorize formal hearing. Authorize settlement by consent order with \$1000.00 civil penalty against this Respondent who is one of the three unlicensed individuals found in the shop with a recommendation that the Respondent appear before the Board at its scheduled meeting on April 6, 2020.*

Update: A Notice of Hearing and Charges was filed against the Respondent, an Administrative Law Judge was assigned, and service was attempted at the last known address in Tennessee. Service on the Respondent, after multiple attempts, was unsuccessful. Thus, personal service will be an issue at a hearing.

New Recommendation: File a Notice and Order of Voluntary Dismissal with the Administrative Procedures Division, and after the Administrative Law Judge signs the Order, then close the file.

Decision: Approved

61. Case No.: COS-2020038321

First License Obtained: 02/05/2018

License Expiration: 01/31/2022

Complaint History: 201908980 closed by Agreed Citation and payment of \$1,000 civil penalty

This matter was previously presented to the Board at its October 5, 2020 meeting as follows: *Pursuant to inspection, it was revealed that Respondent was allowing an unlicensed individual to perform services. A Notice of Violation was issued for person without valid license practicing and responsibilities of owner and manager of a shop. This is Respondent's second offense for person without valid license practicing.*

Recommendation: Authorize formal hearing. Authorize settlement by consent order for the civil penalty of \$1,500.00.

Decision: Approved

Update: Research shows the Respondent owner already signed/paid an Agreed Citation for the same unlicensed individual practicing in the shop on the same inspection date. This would be a duplicitous civil penalty against the shop and its owner.

New Recommendation: Closure.

Decision: Approved

62. Case No.: COS- 2020042271

First License Obtained: 02/19/2016

License Expiration: 02/29/2020

Complaint History: None

This matter was previously presented to the Board at its October 5, 2020 meeting as follows: *This administrative complaint alleges Respondent has refused to answer repeated requests for annual shop inspection.*

Recommendation: Authorize formal hearing. Authorize settlement by consent order for the civil penalty of \$500.00.

Decision: Authorize formal hearing. Authorize settlement by consent order for the civil penalty of \$500.00 which shall be reduced to \$100.00 if Respondent complies with the annual inspection.

Update: Correspondence from Disciplinary Counsel was not responded to regarding the performance of an annual inspection of the shop, and there is not an owner name/telephone number associated with the salon license in a CORE search. The inspector noted in the complaint memorandum that there were three (3) workstations in the salon space when looking through the window, did not see any person performing services in the expired license salon. Inspector contacted the number on the front door, but no one would answer. Business next door told inspector that "sometimes" on Saturday and Sunday "someone is at the shop" without stating whether they were performing services on clients or not. This may be an abandoned shop, but nonetheless, there would be proof and service issues if this matter proceeded to a hearing.

New Recommendation: Letter of instruction to update shop license if the shop is still in business.

Decision: Approved

63. Case No.: COS-2020053241

First License Obtained: N/A

License Expiration: N/A

Complaint History: None

This matter was previously presented to the Board at its October 5, 2020 meeting as follows: Pursuant to annual inspection, Respondent was performing services on a client and could not produce her cosmetology license. A Notice of Violation was issued for not displaying a name tag and practicing while unlicensed.

Recommendation: Authorize formal hearing. Authorize settlement by consent order for the civil penalty of \$1,000.00.

Decision: Approved

Update: This unlicensed Respondent provided no drivers' license, telephone number or date of birth to the inspector; research of the address Respondent provided to the inspector came back to a different individual.

New Recommendation: Closure.

Decision: Approved

64. Case No.: COS2020072531

First License Obtained: 04/28/2011

License Expiration: 04/30/2021

Complaint History: 201802369, closed by Agreed Citation and payment of \$100.00 civil penalty

This matter was previously presented to the Board at its October 5, 2020 meeting as follows: *This consumer complaint alleges unsanitary conditions at a salon. Respondent is the designated shop manager. Inspection revealed no unsanitary conditions but did reveal two (2) individuals practicing while unlicensed and failure of responsibilities of owner or manager of a shop. Respondent is the designated shop manager. A Notice of Violation was issued to the shop and designated manager for all infractions.*

Recommendation: Authorize formal hearing. Authorize settlement by consent order for the civil penalty of \$2,500.00.

Decision: Approved

Update: This Respondent is married to the owner, showing Disciplinary Counsel a marriage certificate for same, and thus co-owns the shop as a marital unit. The shop has already been assessed a civil penalty for the same infraction, and therefore this would be a duplicitous penalty against the shop and its owner.

New Recommendation: Closure.

Decision: Approved

65. Case No. COS-2019017061

First License Obtained: 05/02/2005

License Expiration: 09/01/2021

Complaint history: 2005018931, closed w/\$500 civil penalty paid via Consent Order; 2005035781, dismissed; 2007072131, closed w/no action; 2008012361, dismissed; 2008014551, closed w/no action; 2008021771, closed w/Letter of Warning; 2008026791, closed w/Letter of Warning; 2009010121, dismissed; 2014003171, 2014019051, 2014030611, 2014030631 and 2015020771 closed via executed Agreed Order and Statement of Understanding; 2016013981, closed; 2016049731, dismissed; 2017036371, Letter of Warning

66. Case No. BAR-2019017071

First License Obtained: 09/27/2002

License Expiration: 09/26/2021

Complaint history: 2003169821 dismissed; 2003173001, closed by Agreed Order; 2004188051, dismissed; 2005011351, closed by Consent Order and payment of \$5,000; 2006021801, 2006024771, 200639701 and 2006039721: closed w/no action; 2007072151, 2007086991: closed and flagged; 2008006581, closed w/no action; 2008006591, 2009006861: closed and flagged; 2010033591, closed by Consent Order and payment of \$500 civil penalty; 2011029341, closed w/no action; 2014018211, 2014019041, 2014030621 and 2015020701 closed via executed Agreed Order and Statement of Understanding

This matter was previously presented to the Board at its June 3, 2019 meeting as follows:

This is an administrative complaint opened due to the fact that the Respondent is in violation of the terms of the agreed order entered into in September 2017. Specifically, field inspectors were denied access to student files, log of hours was not made available, and presence of students in the building did not match monthly hours log. The inspectors attempted multiple times to schedule appointments to review the files and to date no files have been provided. The Respondent provided a response and states that the files were reviewed by the inspectors with the exception of June and July 2018. The files for June and July were not available because those students had graduated and the Respondent owner states those files were kept in a different location. There is a lawsuit pending in federal court at this time.

Recommendation: Litigation monitoring

Decision: Approved

Update: The federal litigation involving the department and the Respondent has now been concluded.

New Recommendation: Request an inspection from the Respondent. Authorize formal hearing before the Board. Authorize settlement by consent order for the voluntary revocation/forfeiture of both school licenses.

Decision: Approved

67. Case No.: BAR-2020018461

First License Obtained: 11/09/2001

License Expiration: 11/30/2021

Complaint History: 2016026251, closed by Consent Order and payment of \$100.00 civil penalty

This matter was previously presented to the Board at its August 3, 2020 meeting as follows:

Pursuant to inspection, the inspector found Respondent operating with an expired license (expiration 11-30-19). A Notice of Violation was issued. This is Respondent's second offense for expired license (outside the grace period).

Recommendation: Authorize formal hearing. Authorize settlement by consent order with \$500.00 civil penalty.

Decision: Approved

Update: Per the Respondent and CORE, Respondent renewed the individual license the same day as the inspection/Notice of Violation.

New Recommendation: Closure.

Decision: Approved

68. Case No.: BAR-2020009901

First License Obtained: 11/28/2018

License Expiration: 11/30/2020

Complaint History: None

This matter was previously presented to the Board at its June 1, 2020 meeting as follows:

Pursuant to inspection, this complaint alleges an unlicensed activity, also referred to in 123—BAR-2020009931. A notice of violation was issued to the Respondent shop for shop owner or manager not present and for a person practicing without a license.

Recommendation: Authorize formal hearing. Authorize settlement by consent order with \$1,500.00 civil penalty.

Decision: Approved

Update: Per CORE, it was noted by an inspector that the shop was closed as of 7-24-20.

New Recommendation: Closure.

Decision: Approved

MOTION made by Amy Tanksley and seconded by Patricia Parsons for approval by the full board of the Legal Report as amended. Motion carried unanimously.

APPLICATIONS FOR EXAMINATION-

Applications for examination for: Sebastian Barnes, Kam Washington, Jeverish Williams and Stephanie Sims. The applicants have felonies within the last three years and/or are currently incarcerated. The request to take the Tennessee examination was submitted for the board's approval along with the required information, disclosure from the student and letter of recommendation are submitted. The Board approved Agreed Orders for a probation period of two years as prepared by legal counsel.

Motion made by Judy McAllister and seconded by Patricia Parsons to approve application for examination with a signed Agreed Order. The motion carried by unanimous roll call vote.

MISCELLANEOUS REQUESTS –

Request for Waivers, Reconsiderations and Extensions:

Request to waive the need to retest pursuant to rule 0200-1-.10 which states an applicant must apply for and pay for the original license within six (6) months after passing the examination. The Board may, for good cause, waive this requirement. The board previously authorized the Director to approve these extensions past the six months but for only up to a year and for good cause. Ms. Erica Lindsey provided an explanation that she did not have her exam results, wasn't able to complete the online application and was under financials struggles. All this delayed her request for an original license. She passed the practical exam on 8/26/2019.

MOTION made by Judy McAllister and seconded by Janie Ross to approve extension and approve her license. The motion carried by unanimous roll call vote.

Request to waive the need to retest pursuant to rule 0440-1-.10 which states an applicant must apply for and pay for the original license within six (6) months after passing the examination. The Board may, for good cause, waive this requirement. The board previously authorized the Director to approve these extensions past the six months but for only up to a year and for good cause. Ms. Linh Vi provided an explanation that her green card status was being processed and it took 21 months for the process to be completed. While her verification documents were pending, she could not be approved. She passed the practical exam on 11/14/2018.

MOTION made by Patricia Parsons and seconded by Judy McAllister to approve extension and approve her license. The motion carried by unanimous roll call vote.

PSI incident: On February 27, 2020, at the Johnson City, TN testing facility, Mr. Huy Duc Hoang was stopped from completing his theory exam. Mr. Hoang participated on the WebEx meeting and answered the board members question explaining he made a mistake. He also provided an email explaining he made a mistake using his cell phone. During the incident, there were photos of him repeatedly looked at his cell phone and back at the computer. In prior cases where cheating was suspected, the board blocked testing for one year and had the applicant appear in person or submit a letter if they wished to continue the exam process. PSI has a policy of no cell phones are allowed during the exam. Mr. Gambuzza expressed his desire to stay consistent with the full year being blocked form testing.

MOTION made by Frank Gambuzza and seconded by Janie Ross to allow testing to continue after February 27, 2021. The motion carried by unanimous roll call vote.

DIRECTOR'S REPORT:

The financial numbers through November 2020 were presented. November had a deficit of \$58,854 with revenue down and "other" payroll expenses up. The Board's reserves are listed as \$1,101,891.

NEW BUSINESS:

Update on 2021 continued education selections for board members to attend on behalf of the board.

A new situation came up in December regarding a felony applicant who passed the exams but had to wait to be presented to the board in February. The board members discussed giving legal counsel and the executive director some flexibility for cases where the individual presents all the supporting documents regarding the felony and they have completed the exams therefore are ready for licensure.

MOTION made by Judy McAllister and seconded by Janie Ross to allow the attorney and director some discretion to move forward with the agreed order between meetings. The motion carried by unanimous roll call vote.

Roberts Rule of Order:

For 2021 the board voted to adopt Roberts Rule of Order.

MOTION made by Patricia Parsons and seconded by Frank Gambuzza to adopt Roberts Rules. Motion carried by unanimous roll call vote.

Elect Board Chair and Vice Chair:

Pursuant to T.C.A. 62-4-105, the board shall annually elect a chair and vice chair.

MOTION made by Judy McAllister and seconded by Frank Gambuzza to elect Ron Gillihan as Chair for 2021. Motion carried by unanimous roll call vote.

MOTION made by Janie Ross and seconded by Judy McAllister to elect Becky Russell as vice chair of the State Board of Cosmetology and Barber Examiners for 2021. Motion carried by unanimous roll call vote.

Additional Questions:

Motion to adjourn

Meeting adjourned at 11:17 AM.

MOTION to adjourn made by Judy McAllister and seconded by Frank Gambuzza to adjourn the meeting.