

The Oklahoma State Board of Cosmetology and Barbering met at 10:00 am on Monday, November 9, 2015 at 2401 NW 23rd Street, Suite 84, Testing Center, Oklahoma City, OK 73107. The following persons were present:

BOARD MEMBERS

Ken Young, Chair
Anthony Baldini, Vice Chair
Dianna Fisher
Tammy Graham
Bill Helton
Christy Mather
Max Thomas
Janet Dale Webb

BOARD'S LEGAL ADVISORS

Grant Moak, Assistant Attorney General
Tiffany Wythe, Assistant Attorney General

BOARD STAFF

Sherry G. Lewelling, Executive Director
Jennifer McRee, Principal Assistant
Krissy Miller, Inspector
Donnie Allen, Inspector

VISITORS

Cam H. Ly
David Dryer
Darren Gibson
Steven Shardin
Renee Mack
Dez Juan Jackson
Betty Mack
Emily Bartel
Rosemary Greenlee
Linda Wiist
Giam Minh Do
Bini Co
Le Kim
Thuan Tran
Thao Bui

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Linh Nguyen

Tina Tran

Tony Nguyen

Ba Vo

John Graves

Thony Nguyen

Tuan Truong

(some of the names were not legible on the Visitor sign in sheet)

CALL TO ORDER

Chair Young called the meeting to order. He confirmed with Ms. McRee that the agenda had been properly posted and agenda-ized.

ROLL CALL

The following persons answered roll call: Young, Baldini, Fisher, Graham, Helton, Mather, Thomas and Webb. Austin, Bennett and Payne were not present.

PUBLIC COMMENT – OPPORTUNITY FOR THE BOARD TO RECVEIVE PUBLIC COMMENT . EACH SPAKER IS LIMITED TO THREE MINUTES. COMMENTS MUST BE RELATED TO ITEMS LISTED ON THE AGENDA

No formal requests to speak were received.

COMMENTS FROM INSPECTORS

No comments were received.

DISCUSSION AND BOARD ACTION TO APPROVE OR DISAPPROVE FINANCIAL REPORT (July 1, 2015 to October 31, 2015) – STEVEN HAWKINS, AGENCY BUSINESS SERVICES, OMES

Mr. Hawkins provided the Financial Report to the Board.

A motion was made by Mr. Helton and seconded my Ms. Fisher to approve the financial report as presented.

VOTING: Baldini, yes; Fisher, yes; Graham, yes; Helton, yes; Mather, yes; Thomas, yes; Webb, yes.

Motion carried.

DISCUSSION AND possible ACTION TO APPROVE OR DISAPPROVE BOARD MEETING MINUTES OF SEPTEMBER 14, 2015

A motion as made by Mr. Helton and seconded by Mr. Thomas to approve the Board meeting minutes of September 14, 2015

A motion was made by Mr. Helton and seconded my Ms. Fisher to approve the financial report as presented.

VOTING: Baldini, yes; Fisher, yes; Graham, yes; Helton, yes; Mather, yes; Thomas, yes; Webb, yes.

Motion carried.

BUDGET REPORT – REPORT FROM NOVEMBER 2, 2015 COMMITTEE MEETING – MAX THOMAS, COMMITTEE CHAIR

Mr. Thomas provided a report to the Board. He told of the Governor's Executive Order to the Board requesting Agency Budget cuts in specific areas and written response from the Appointing Authority and the Agency's strategic action to address this.

RULES COMMITTEE REPORT – REPORT FROM NOVEMBER 2, 2015 COMMITTEE – KEN YOUNG, CHAIR

Chair Young stated that the Committee met on November 2, 2015 and developed a rules draft that has been reviewed by Grant Moak, Assistant Attorney General. He stated that the agenda item today is to approve the initiation of the rulemaking process and the proposed rules in the draft are the rules that the Committee is presenting to the Board.

A motion was made by Ms. Webb and seconded by Mr. Helton to approve the initiation of the Rulemaking Process.

A motion was made by Mr. Helton and seconded my Ms. Fisher to approve the financial report as presented.

VOTING: Baldini, yes; Fisher, yes; Graham, yes; Helton, yes; Mather, yes; Thomas, yes; Webb, yes.

Motion carried.

**LEGISLATIVE COMMITTEE REPORT – REPORT FROM NOVEMBER 2, 2015
COMMITTEE MEETING – MAX THOMAS, COMMITTEE CHAIR**

Mr. Thomas reported that the Legislative Committee met on November 2, 2015 and reviewed proposed legislative draft.

After Board discussion, it was determined that the Board would consider approval and a vote at the December 7, 2015 Special Meeting at 10:00 a.m. The deadline to file legislation is December 11, 2015 and it will be necessary for the Board to secure bill authors.

DIRECTOR'S REPORT – SHERRY G. LEWELLING

Ms. Lewelling provided a written report to the Board. In her report she welcomed the newest Board member, Christy Mather. She invited Board members to the December 7, 2015 office Christmas party. She announced the retirement of Jennifer McRee. She also told of the presentation made by Leslie Roste of King Research, makers of Barbacide to Inspectors at the office on October 5, 2015.

Hearings

In each case listed below, the Board may vote to enter into Executive Session pursuant to 25 O.S. § 307(B)(8).

Case No. 2015-001

In the Matter of the Complaint Against Teresa Hog Phung #84799

Case No. 2015-002

In the Matter of the Complaint Against Thu Ha Thi Doan #95186

Case No. 2015-003

In the Matter of the Complaint Against Yen Ngoc Nguyen #97367

Case No. 2015-004

In the Matter of the Complaint Against Thao Thi Trang Bui #102112

Case No. 2015-005

In the Matter of the Complaint Against Bini Thi Co #102165

Case No. 2015-006

In the Matter of the Complaint Against Thuan Quoc Tran #106571

Case No. 2015-007

In the Matter of the Complaint Against Kim Thi Nguyen #131434

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Case No. 2015-008

In the Matter of the Complaint Against Phuc Thi Hong Le #139182

Case No. 2015-009

In the Matter of the Complaint Against Giam M. Do #139209

Case No. 2015-010

In the Matter of the Complaint Against Huong Thi Lan Tran #139414

Case No. 2015-011

In the Matter of the Complaint Against Nguyen Trung Hoang #139530

Case No. 2015-012

In the Matter of the Complaint Against Sang Thi Nguyen #139531

Case No. 2015-013

In the Matter of the Complaint Against Tuyen Mong Ho #139537

Case No. 2015-014

In the Matter of the Complaint Against Ily Thi Tran #139584

Case No. 2015-015

In the Matter of the Complaint Against Chi Thi Nguyen #139627

Case No. 2015-016

In the Matter of the Complaint Against Danhuyen N. Ton #139635

Case No. 2015-017

In the Matter of the Complaint Against Mai Thi Nguyen #139636

Case No. 2015-018

In the Matter of the Complaint Against Thuy T. Vo #139638

Case No. 2015-019

In the Matter of the Complaint Against Quynh Nhu Thi Mai #139688

Case No. 2015-020

In the Matter of the Complaint Against Anh Nguyet Hung #139705

Case No. 2015-021

In the Matter of the Complaint Against Giang T Phan #139715

Case No. 2015-022

In the Matter of the Complaint Against Trung Le Dao #139761

Case No. 2015-023

In the Matter of the Complaint Against Huong Thi Mong Nguyen #139765

Case No. 2015-024

In the Matter of the Complaint Against Ba T. Vo #139823

Case No. 2015-025

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In the Matter of the Complaint Against Huang Thi Pham #146090
Case No. 2015-026

In the Matter of the Complaint Against Mercedes Diaz #146157
Case No. 2015-027

In the Matter of the Complaint Against Trang T. Nguyen #149036
Case No. 2015-028

In the Matter of the Complaint Against Nancy Ngoc Nguyen #149957
Case No. 2015-029

In the Matter of the Complaint Against Tina Tran #150301
Case No. 2015-030

In the Matter of the Complaint Against Cuong Van Lou #156416
Case No. 2015-031

In the Matter of the Complaint Against Phong Duy Nguyen #156418
Case No. 2015-032

In the Matter of the Complaint Against Pa San Htee #156419
Case No. 2015-033

In the Matter of the Complaint Against Anh M. Tran #156420
Case No. 2015-034

In the Matter of the Complaint Against Nhung Thi Tran #156424
Case No. 2015-035

In the Matter of the Complaint Against Ngan T. Pham #156425
Case No. 2015-036

In the Matter of the Complaint Against Hoan Thi Nguyen #156436
Case No. 2015-037

In the Matter of the Complaint Against Vien Ba Lam Do #156440
Case No. 2015-038

In the Matter of the Complaint Against Thao Thi Thach Nguyen #156441
Case No. 2015-039

In the Matter of the Complaint Against Truc Thu Thanh Pham #156451
Case No. 2015-040

In the Matter of the Complaint Against Le T. Kim #156445
Case No. 2015-041

In the Matter of the Complaint Against Ha Khanh Ly #156480
Case No. 2015-042

In the Matter of the Complaint Against Vu Hoang Le #156492

Case No. 2015-043

In the Matter of the Complaint Against Linh T. Nguyen #162614

Case No. 2015-044

In the Matter of the Complaint Against Hanh M. Ha #164739

Possible vote to enter Open Session.

Discussion and possible action on matters discussed in Executive Session

Ken Young , Chair swore in all witnesses, including Sherry G. Lewelling, Executive Director and speaker phone testimony from Secretary Rodriguez-Bernier from the Puerto Rico Board. Exhibits for all cases were distributed to the Board.

Grant Moak, Assistant Attorney General, presented the following cases to the Board.

It was determined that Respondents for Case #'s as follows were not present and had been properly served according to the Administrative Procedures Act:

2015-001	2015-002	2015-003	2015-007	2015-008	2015-011
2015-013	2015-014	2015-015	2015-016	2015-017	2015-18
2015-019	2015-020	2015-025	2015-026	2015-027	2015-028
2015-030	2015-031	2015-032	2015-033	2015-034	2015-035
2015-036	2015-037	2015-038	2015-039	2015-041	2015-042
2015-044					

Mr. Moak requested the Board consider a default judgment against the above listed Cases/Respondents that did not appear.

Board members present: Young, Baldini, Thomas, Helton, Graham, Mather, Webb and Fisher.

A motion was made by Mr. Helton and seconded by Ms. Fisher to enter into Executive Session to discuss the Cases listed above.

VOTING: Baldini, yes; Fisher, yes; Graham, yes; Helton, yes; Mather, yes; Thomas, yes; Webb, yes.

Motion carried.

The Board deliberated in Executive Session.

A motion was made by Ms. Webb and seconded by Mr. Helton to adjourn Executive Session and return to regular session.

VOTING: Baldini, yes; Fisher, yes; Graham, yes; Helton, yes; Mather, yes; Thomas, yes; Webb, yes.

Motion carried.

A motion was made by Mr. Thomas and seconded by Ms. Webb in Cases

2015-001	2015-002	2015-003	2015-007	2015-008	2015-011
2015-013	2015-014	2015-015	2015-016	2015-017	2015-18
2015-019	2015-020	2015-025	2015-026	2015-027	2015-028
2015-030	2015-031	2015-032	2015-033	2015-034	2015-035
2015-036	2015-037	2015-038	2015-039	2015-041	2015-042
2015-044					

that the Board 1) adopt the findings of fact and conclusions of law as stated in each complaint, 2) make an additional finding that each Respondent knowingly made false material misrepresentations regarding licensure in Puerto Rico with intent to obtain licensure by reciprocity from the Board, and 3) to revoke each Respondent's license.

Voting: Baldini, yes; Fisher, yes; Graham, yes; Helton, yes; Mather, yes; Thomas, yes; Webb, yes.

Motion carried.

Pursuant to Executive Order 2015-33, the Board's order will not be effective until it has been reviewed and approved by the Oklahoma Attorney General.

Case No. 2015-004

In the Matter of the Complaint Against Thao Thi Trang Bui #102112

Mr. Moak presented the case to the Board and examined witnesses.

Board members present: Young, Baldini, Thomas, Helton, Graham, Mather, Webb, Fisher.
(Mather recused)

A motion was made by Mr. Baldini and seconded by Mr. Helton to adjourn regular session and enter into Executive Session.

VOTING: Baldini, yes, Thomas, yes; Helton; Fisher, yes; Graham; Webb, yes.
Motion carried.

The Board deliberated in Executive Session.

A motion was made by Mr. Helton and seconded by Mr. Baldini to adjourn Executive Session and return to regular session.

VOTING: Baldini, yes, Thomas, yes; Helton; Fisher, yes; Graham; Webb, yes.
Motion carried.

A motion was made by Mr. Baldini and seconded by Mr. Helton in **Case No 2004-004** that the Board 1) adopt the findings of fact and conclusions of law as stated in the formal complaint with the exception of paragraphs 6 and 9, 2) find that the Respondent committed constructive fraud because Respondent had a legal and equitable duty to know the requirements for licensure and Respondent's negligence caused the Board to issue a license for which Respondent was not qualified, and 3) to revoke Respondent's cosmetology license.

Pursuant to Executive Order 2015-33, the Board's order will not be effective until it has been reviewed and approved by the Oklahoma Attorney General.

Case No. 2015-010

In the Matter of the Complaint Against Huong Thi Lan Tran #139414

Mr. Moak presented the Case to the Board and examined witnesses.

Case No. 2015-022

In the Matter of the Complaint Against Trung Le Dao #139761

Mr. Moak presented the Case to the Board and examined witnesses.

Case No. 2015-012

In the Matter of the Complaint Against Sang Thi Nguyen #139531

Mr. Moak presented the Case to the Board and examined witnesses.

Board members present: Young, Baldini, Thomas, Helton, Graham, Mather, Webb, Fisher.

A motion was made by Mr. Helton and seconded by Mr. Baldini to adjourn regular session and to enter into Executive Session.

VOTING: Baldini, yes; Thomas, yes; Helton, yes; Fisher, yes; Graham, yes; Mather, yes; Webb, yes.

Motion carried.

The Board deliberated in Executive Session.

A motion as made by Mr. Helton and seconded by Mr. Baldini to adjourn Executive Session and return to regular session.

VOTING: Baldini, yes; Thomas, yes; Helton, yes; Fisher, yes; Graham, yes; Mather, yes; Webb, yes.

Motion carried.

A motion was made by Mr. Helton and seconded by Mr. Baldini that in the matter of **Cases #2015-010 and Case #2015-22** that the Board 1) adopt the findings of fact and conclusions of law as stated in the formal complaint with the exception of paragraphs 6 and 9, 2) find that Respondent committed constructive fraud because Respondent had a legal and equitable duty to know the requirements for licensure and Respondent's negligence caused the Board to issue a license for which Respondent was not qualified, and 3) to revoke Respondent's license.

VOTING: Baldini, yes; Thomas, yes; Helton, yes; Fisher, yes; Graham, yes; Webb, yes, Mather, yes.

Motion carried.

A motion was made by Mr. Helton and seconded by Ms. Fisher that in **Case No. 2015-012** that the Board 1) adopt the findings of fact and conclusions of law as stated in the complaint, 2)

make an additional finding that Respondent knowingly made false material misrepresentations regarding licensure in Puerto Rico with intent to obtain licensure by reciprocity from the Board, and 3) to revoke the Respondent's license.

VOTING: Baldini, yes; Thomas, yes; Helton, yes; Fisher, yes; Graham, yes; Mather, yes; Webb, yes.

Motion carried.

Pursuant to Executive Order 2015-33, the Board's order will not be effective until it has been reviewed and approved by the Oklahoma Attorney General.

Case No. 2015-005

In the Matter of the Complaint Against Bini Thi Co #102165

Mr. Moak presented the Case to the Board.

Board members present: Young, Baldini, Helton, Thomas, Graham, Mather, Webb, Fisher
A motion was made by Ms. Webb and seconded by Mr. Helton to adjourn regular session and enter into Executive Session.

VOTING: Baldini, yes; Helton, yes; Thomas, yes; Mather, yes; Webb, yes; Graham, yes; Fisher, yes.

Motion carried.

The Board deliberated in Executive Session.

A motion was made by Ms. Webb and seconded by Mr. Helton to adjourn Executive Session and return to regular session.

VOTING: Baldini, yes; Helton, yes; Mather, yes; Thomas, yes; Webb, yes; Graham, yes; Fisher, yes.

Motion carried.

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A motion was made by Mr. Helton and seconded by Ms. Fisher that the Board in **Case No 2015-005** 1) adopt the findings of fact and conclusions of law as stated in the complaint, 2) make an additional finding that Respondent knowingly made false material misrepresentations regarding licensure in Puerto Rico with intent to obtain licensure by reciprocity from the Board, and 3) to revoke the Respondent's license.

Pursuant to Executive Order 2015-33, the Board's order will not be effective until it has been reviewed and approved by the Oklahoma Attorney General.

VOTING: Baldini, yes; Helton, yes; Mather, yes; Graham, yes; Thomas, yes; Webb, yes; Fisher, yes.

Motion carried.

Case No. 2015-006

In the Matter of the Complaint Against Thuan Quoc Tran #106571

Mr. Moak presented the Case to the Board.

Board members present: Young, Baldini, Helton, Mather, Webb, Fisher. Graham recused. Thomas left prior to the vote.

Mr. Helton made a motion, seconded by Mr. Baldini that in **Case No 2015-006** that the Board 1) adopt the findings of fact and conclusions of law as stated in each complaint, 2) make an additional finding that Respondent knowingly made false material representation licensure in Puerto Rico with intent to obtain licensure by reciprocity from the Board, and 3) to revoke the Respondent's license.

Pursuant to Executive Order 2015-33, the Board's order will not be effective until it has been reviewed and approved by the Oklahoma Attorney General.

VOTING: Baldini, yes; Helton, yes; Mather, yes; Fisher, yes; Webb, yes.

Motion carried.

Case No. 2015-009

In the Matter of the Complaint Against Giam M. Do #139209

Mr. Moak presented the Case to the Board.

Members present: Young, Baldini, Helton, Graham, Webb and Fisher. Mather recused.

Mr. Helton made a motion, seconded by Ms. Fisher that in **Case No 2015-009** that the Board 1) adopt the findings of fact and conclusions of law as stated in each complaint, 2) make an additional finding that Respondent knowingly made false material representation licensure in Puerto Rico with intent to obtain licensure by reciprocity from the Board, and 3) to revoke the Respondent's license.

Pursuant to Executive Order 2015-33, the Board's order will not be effective until it has been reviewed and approved by the Oklahoma Attorney General.

VOTING: Baldini, yes; Helton, yes; Graham, yes; Fisher, yes, Webb, yes.
Motion carried.

Ms. Fisher left the meeting.

It was determined that Cases still left on the agenda would require specific members to recuse themselves and there would no longer be a quorum present to hear these cases.

A motion was made to by Mr. Helton and seconded by Mr. Baldini to continue Cases 2015-21, 2015-23, 2015-24, 2015-40 and 2015-43 at the December 7, 2015 Special meeting at 10:00 a.m. and continue Case 2015-029 for the 1/11/2016 Board meeting because the Respondent had a special circumstance that would not allow her to attend the Special Board meeting.

VOTING: Baldini, yes; Helton, yes; Mather, yes; Graham, yes, Webb, yes.
Motion carried.

Performance Appraisal Committee Report – Report from November 9, 2015 Committee Meeting
- Janet Dale Webb, Committee Chair

Agenda item could not be heard due to lack of quorum

Performance Evaluation and Discussion and Board Action To Approve or Disapprove Salary Increase of Executive Director, Sherry G. Lewelling. Proposed Executive Session for Discussion of the Above Pursuant to 25 O.S. § 307 (B)(1)

New Business Which Could Not Have Been Reasonably Foreseen Prior To Posting of Meeting Agenda 25 O.S. § (A)(9)

Agenda item could not be heard due to lack of quorum

Board Adjournment

Board meeting was adjourned.

Ken Young, Board Chair

Anthony Baldini, Vice Chair

Dianna Fisher

Tammy Graham

Bill Helton

Christy Mather

Max Thomas

Janet Dale Webb