

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

ARKANSAS DEPARTMENT OF HEALTH
COSMETOLOGY SECTION
COSMETOLOGY TECHNICAL ADVISORY COMMITTEE

BE IT REMEMBERED that on Monday, the 18th day of July 2016, the meeting of the Arkansas Department of Health, Cosmetology Section, Cosmetology Technical Advisory Committee was held, at 9:00 a.m., at the Arkansas Department of Health, Freeway Medical Building, Suite 801, Little Rock, Pulaski County, Arkansas.

TECHNICAL ADVISORY COMMITTEE:

- ANGELA JACKSON, Chair
- TRISH ANDERSON
- TONYA BOYDSTUN
- JESSICA PECK (not present)
- CARLA JONES
- BRIAN KEARY (Appointee)

REPORTED BY:

SUSAN B. WHITSON, CCR
Arkansas Supreme Court Certificate No. 158
9810 Woodland Drive
Mabelvale, Arkansas 72103
(501) 455-1170
WhitsonCCR@aol.com

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 APPEARANCES:

2 ON BEHALF OF THE COMMITTEE:

3 ELIZABETH HARRIS, ESQ.

4 HEARING OFFICER:

5 CHARLIE MOULTON, ESQ.

6

7 Staff Members Present:

8 KELLI KERSEY - Section Chief
9 CONNIE MELTON, ADH Branch Chief
AMANDA WEEKS

10 Inspectors Present:

11 TERRIE NASH
12 LAVONNE LESTER
13 VERA WOOD
TONYA WILLIAMS
14 BRIAN NATION

14

15 ALSO PRESENT:

16 Connie Grace, Esq.
17 Juanita Hughes
Gail Ragland
18 Suzanne Rogers
Bernard Cobbs
19 Tuyet Van, DDS
Kieu Van Truong

20

21 Court Reporter:

22 Susan B. Whitson, CCR
23 Arkansas Supreme Court Certificate No. 158

23

24

25

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

I N D E X		
	AGENDA ITEM	PAGE
1		
2	AGENDA ITEM	PAGE
3	Call to order - Roll Call	6
4	Approval of minutes	6
5	Paid violations	6
6	Administrative Hearings	
7	RE: INFINITY NAILS & SPA	7
8	WITNESSES	
9	VERA WOOD	
10	Direct by Ms. Harris	18
11	Examination by Dr. Van	23
12	Re-examination by Ms. Harris	24
13	BRIAN NATION	
14	Direct by Ms. Harris	25
15	Examination by Dr. Van	27
16	Examination by the Committee	29
17	TERRIE NASH	
18	Direct by Ms. Harris	30
19	Examination by the Committee	32
20	Redirect by Ms. Harris	32
21	Re-examination by the Committee	32
22	KELLI KERSEY	
23	Direct by Ms. Harris	34
24	TUYET VAN, DDS	
25	Direct Testimony	38

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1	Examination by the Committee	49
2	EXHIBITS	RECEIVED
3	Petitioner's 1	15
4	Respondent's 1	16
5	Closing by Ms. Harris	58
6	Motions by the Committee	62
7	RE: KOOL KUTTS II & BERNARD COBBS	64
8	WITNESSES	
9	KELLI KERSEY	
10	Direct by Ms. Harris	69
11	LAVONNE LESTER	
12	Direct by Ms. Harris	75
13	BERNARD COBBS	
14	Direct Testimony	78
15	Examination by the Committee	79
16	Petitioner's Exhibit 1 received	68
17	Motions by the Committee	94
18	RE: SUZANNE SMITH	97
19	KELLI KERSEY	
20	Direct by Ms. Harris	102
21	SUZANNE SMITH	
22	Direct Testimony	105
23	Examination by the Committee	107
24	Petitioner's Exhibit 1 received	101
25	Motions by the Committee	109

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1	RE: ONE SOURCE STYLING SALON	111
2	WITNESS	
3	KELLI KERSEY	
4	Direct by Ms. Harris	113
5	Examination by the Committee	117
6	Petitioner's Exhibit 1 received	112
7	Motions by the Committee	119
8		
9	Massage Therapy/Aesthetician course hour	
10	conversion table	121
11	Program update - Kelli Kersey	121
12		
13	Court reporter's certificate	122
14		
15		
16	---	
17		
18		
19		
20		
21		
22		
23		
24		
25		

---o---

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S

The Cosmetology Technical Advisory Committee meeting was called to order by Chairman Angela Jackson. Committee members present are Angela Jackson, Tonya Boydston, Trish Anderson, and appointee Brian Keary. Carla Jones joined the proceedings at 9:14. Jessica Peck is not present.

Motion made by Trish Anderson to approve the minutes of the previous meeting, second by Tonya Boydston, passed unanimously.

Motion made by Tonya Boydston to accept the paid violations, second by Trish Anderson, passed unanimously.

MS. JACKSON: Okay. At this time I'll turn it over to Elizabeth Harris for the hearings.

MS. HARRIS: And I'll turn it over to Charlie Moulton, our attorney.

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 Arkansas Department of Health, Petitioner,
2 versus Infinity Nails and Spa. And is that the
3 one you want to do first?

4 MS. JACKSON: Yes.

5 HEARING OFFICER: All right.

6 COURT REPORTER: Charlie, could you speak
7 up? Charlie, could you speak up, please? I'm
8 having trouble hearing.

9 HEARING OFFICER: All right. I'm going to
10 yell.

11 MS. HARRIS: That's what I do.

12 HEARING OFFICER: All right. So the first
13 item up on the agenda and for the hearings is
14 styled Before the Cosmetology Technical
15 Advisory Committee, In the Matter of Arkansas
16 Department of Health, Petitioner, versus
17 Infinity Nails and Spa, Respondent.

18 Is there someone here -- are you from
19 Infinity Nails, Respondent?

20 MS. WOOD: No. They are.

21 HEARING OFFICER: Okay. Please, ladies,
22 would you please have a seat over here?

23 All right. Would you be so kind as to
24 identify yourself for the record, who you are?

25 DR. VAN: Hi. My name is Tuyet Van,

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 T-u-y-e-t, last name Van.

2 And this is my mother.

3 MS. VAN TRUONG: Hi. My name is Kieu Van
4 Truong. My last name is Van, V-a-n,
5 T-r-u-o-n-g.

6 HEARING OFFICER: All right.

7 MS. VAN TRUONG: And my first name is
8 K-i-e-u.

9 HEARING OFFICER: Thank you. Thank you
10 very much.

11 Ms. Harris, would you identify yourself
12 for the record, please.

13 MS. HARRIS: Me?

14 HEARING OFFICER: Yes.

15 MS. HARRIS: Yes. I'm Elizabeth Harris,
16 I'm an attorney for the Department of Health.

17 HEARING OFFICER: Okay. And, ladies, I
18 don't know if you've ever been in an
19 administrative hearing before, if you
20 understand how the process works. Let me
21 explain it to you. And I know it can be
22 somewhat intimidating, but I'm the hearing
23 officer, and so that means I'm -- all I do is I
24 run the hearing. All right? The folks that
25 are members of the committee, which they're

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 over on this side of me, this side and this
2 side, they are the ones that are actually going
3 to be making a decision in this matter.

4 And I take it from the fact that you're
5 here this morning that you received a copy
6 and -- copy of the Order and Notice of Hearing
7 in this case. Is that correct?

8 DR. VAN: Yes, sir.

9 HEARING OFFICER: All right. Let me
10 incorporate by reference both the statutes and
11 the regulations that are governing this
12 particular proceeding. And let me explain here
13 a little bit about what's going to happen.
14 Okay?

15 Ms. Harris, who represents staff, is going
16 to put on her case. She will call whatever
17 witnesses that she's got. I'm assuming it's
18 the two people to your immediate right are
19 going to be giving testimony. All right?

20 It's -- it's -- this function is kind of
21 like what you would see in a court proceeding
22 on TV, but it's not as formal as a court
23 proceeding. All right? As I said, I'm the one
24 that runs the hearing but I don't make the
25 decision, and one of my jobs is to make certain

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 that you get a full, fair hearing, so you get a
2 chance to tell your side of the story to the
3 committee. If at any time you don't understand
4 what's going on or you're confused or you have
5 a question, let me know, because my job is to
6 make certain that you get that hearing that you
7 want and that you get a chance to tell your
8 story. Okay?

9 One of the things I'm going to ask you to
10 do, and up to this point you've been doing
11 pretty good, when -- when there is a
12 communication, whatever -- and that goes for
13 everybody in the room -- try to make certain
14 that you give a verbal response as opposed to a
15 nod of your head --

16 DR. VAN: (Nodding head up and down.)

17 HEARING OFFICER: -- like what you're
18 doing --

19 DR. VAN: Yes, sir.

20 HEARING OFFICER: -- because this lady
21 over here is taking it down, and if you just
22 nod your head it's very difficult for her to
23 transcribe that. All right?

24 DR. VAN: (Nodding head up and down.)

25 HEARING OFFICER: Have you -- have you

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 brought any documents or anything that you want
2 the committee to see with you today?

3 DR. VAN: Yes, I do. I have pictures of
4 our nail salon as it is right now.

5 HEARING OFFICER: All right.

6 DR. VAN: And how -- and I wanted to
7 explain to you how we go through the procedures
8 at the nail salon.

9 HEARING OFFICER: Okay.

10 DR. VAN: I also have our -- our original
11 copies of our inspection reports that I would
12 like for you guys to see too.

13 HEARING OFFICER: Okay.

14 DR. VAN: Sorry. I'm a little nervous.

15 HEARING OFFICER: Now, those are
16 originals, correct? You don't have copies?

17 DR. VAN: No, these are the carbon. I
18 guess whenever there is an inspection we
19 receive a carbon copy of it.

20 HEARING OFFICER: All right. If you want
21 those introduced into the record, in other
22 words you want them made part of the record,
23 I'll mark them and put them as part of the
24 record. The problem is that you're not going
25 to get them back unless somebody can help these

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 ladies out and make a copy of them.

2 DR. VAN: I believe they are in the
3 packet.

4 HEARING OFFICER: Oh, they're already --

5 MS. HARRIS: That's what I was going to
6 say.

7 HEARING OFFICER: Okay. All right. So
8 they are already -- they are already part of
9 the record.

10 DR. VAN: Yes. But there is something I
11 would like to talk about on that too.

12 HEARING OFFICER: All right. And I'm
13 going to give you that chance. Okay?

14 So here's how the process works. As I
15 said, Elizabeth is going to go first and call
16 witnesses. You'll have a chance to ask
17 questions of the witnesses if you would like.
18 You're under no compulsion to ask questions at
19 all. This is not Judge Judy or Perry Mason or
20 things like that, but if you've got -- if you
21 want to ask a question, you can, and I'll let
22 you have that opportunity.

23 Once she's done, then it will be your turn
24 to tell your side of the story. All right?

25 DR. VAN: (Nodding head up and down.)

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 HEARING OFFICER: So she goes first, you
2 go second, and at the end I'll let you sum up
3 for the committee as well.

4 My guess is, as this goes forward, the
5 committee is going to have some questions for
6 you too. So once you tell your side of the
7 story, I'm sure she may have some questions,
8 the committee members may have some questions.
9 Once everybody is done, they are going to go
10 off the record, they are going to deliberate,
11 and they are going to come back on the record
12 and make a decision. Okay?

13 DR. VAN: Okay, sir.

14 HEARING OFFICER: All right. Any other
15 preliminary matters?

16 Let's go ahead and swear in the witnesses.

17 COURT REPORTER: I didn't hear you,
18 Elizabeth.

19 MS. HARRIS: I was just telling him --

20 HEARING OFFICER: She wants to have an
21 opening statement.

22 (WHEREUPON, the witnesses were sworn by
23 the Hearing Officer.)

24 HEARING OFFICER: All right. Thank you.

25 All right. You -- do you want to have an

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 opening statement?

2 MS. HARRIS: I -- not really.

3 HEARING OFFICER: No?

4 MS. HARRIS: I'm good.

5 I do have a 17-page packet that I would
6 like to introduce into the record --

7 HEARING OFFICER: Okay.

8 MS. HARRIS: -- that I believe you
9 received a copy of?

10 DR. VAN: (Nodding head up and down.)

11 HEARING OFFICER: All right. Ms. Van, do
12 you have a copy of this?

13 DR. VAN: Yes, sir.

14 HEARING OFFICER: All right. There are 17
15 pages. I'm going to go ahead and mark that as
16 Committee's Exhibit No. 1, and admit that into
17 evidence.

18 (WHEREUPON, Petitioner's Exhibit No. 1 was
19 received in evidence.)

20 HEARING OFFICER: And then let me come
21 down and take a look at what you've got.

22 I'm sorry, it's a long walk.

23 DR. VAN: I'm -- I'm sorry.

24 HEARING OFFICER: Okay. So --

25 DR. VAN: These are just the inspection

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 reports that we've had, and then these are
2 pictures of the nail salon that we have.

3 HEARING OFFICER: Okay. Are these already
4 in the record or are these --

5 DR. VAN: No, they are not.

6 HEARING OFFICER: These are not in the
7 record?

8 All right. You've got 12 pictures. Does
9 anyone have a stapler?

10 All right. You want the committee to look
11 at these, I'm going to go ahead and mark these
12 as your Respondent's Exhibit 1, and admit those
13 into evidence. Okay?

14 DR. VAN: Oh, I forgot one thing here too.
15 I also have some things to show you guys. I'm
16 sorry.

17 HEARING OFFICER: All right.

18 MS. VAN TRUONG: We can make copies?

19 DR. VAN: Sorry.

20 HEARING OFFICER: All right.

21 (WHEREUPON, Respondent's Exhibit No. 1 was
22 marked for identification.)

23 MS. HARRIS: We can make copies in the
24 office next door if they don't want to give her
25 only ones to us.

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 HEARING OFFICER: Okay.

2 DR. VAN: Oh, that's okay. I have a copy
3 for myself already just so I know what page I'm
4 referring to when you read that.

5 HEARING OFFICER: Okay. That's fine.

6 MS. KERSEY: Do y'all want copies or do
7 y'all just want to look at these?

8 HEARING OFFICER: There you go, you can go
9 ahead and pass those around to the committee
10 members.

11 Ms. Van, what do you have here? What's
12 this?

13 DR. VAN: This is just to help kind of
14 explain the procedures that we do in the nail
15 side and the pedicure side.

16 HEARING OFFICER: Okay.

17 DR. VAN: So this is part of the pedicure
18 set up.

19 HEARING OFFICER: Do you want those --

20 DR. VAN: You guys can keep them, it's
21 just to -- a show and tell.

22 HEARING OFFICER: All right. I'm not
23 going to admit your show and tell stuff,
24 because you can go ahead and explain it to the
25 committee as you go through when you tell your

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 statement. Okay?

2 DR. VAN: Okay.

3 HEARING OFFICER: All right. Are you
4 ready to proceed?

5 MS. HARRIS: (Nodding head up and down.)

6 HEARING OFFICER: All right. Ms. Harris,
7 you may call your first witness.

8 MS. HARRIS: Call Vera Wood.

9 WHEREUPON,

10 VERA WOOD,
11 having been called for examination, and having been first
12 duly sworn by the Hearing Officer, was examined and
13 testified, as follows:

14 DIRECT EXAMINATION

15 BY MS. HARRIS:

16 Q Please identify yourself for the record.

17 A Vera Wood, Inspector, Cosmetology.

18 Q And, Ms. Wood, did you inspect Infinity Nails and
19 Spa?

20 A On what date?

21 Q February 17, 2016?

22 A Yes, ma'am.

23 Q Okay. Can you tell us why you went out there on
24 February 17, 2016?

25 A Okay. I have to get there.

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 Q Was it a complaint or was it a routine inspection?

2 A It was a complaint.

3 MS. HARRIS: I think a copy of that
4 complaint is in the packet on Page 13.

5 BY MS. HARRIS:

6 Q Can you tell us what the complaint was?

7 A It was a complaint on someone having contacted
8 cellulitis from a service received at Infinity Nails.

9 Q Okay. So you came on February 17th. Could you
10 tell us what you found that day?

11 A I found that, just following the inspection sheet,
12 that the -- that they needed -- they didn't have
13 sufficient airtight containers for sanitized things, and
14 that all bottles were not labeled, and that some of the
15 supplies and instruments used were not disposed of
16 immediately.

17 Q Okay. You have a note here on the side of your
18 inspection sheet. Can you tell me what that is?

19 A It says, "Dirty files, clean -- clean equipment
20 not -- not in a closed container, dirty files, buffers
21 not disposed of immediately."

22 Q Okay. So did that relate to any of the pedicure
23 stuff that was -- the pedicure procedures that were in
24 the salon, the violations you found?

25 Does that make -- was that an easy question to

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 understand or was that a bad question?

2 The violations you found about the dirty
3 instruments, did that have anything to do with pedicures
4 in the salon?

5 A The buffers and files could have, yes.

6 Q Okay. Ms. Wood, did you take pictures of your
7 inspection?

8 A I did.

9 Q I think they are also in the packet. Page 15 and
10 16?

11 A Yes.

12 Q If you can tell us what we're seeing on Page 15?

13 A When -- when we -- we opened the stations, we found
14 a container that had buffers and files in it. They were
15 dirty, they had been used.

16 The other one on 16 is a cup that had clean nail
17 brushes, that's where this storing clean things in a
18 closed container comes in.

19 Q So what were you looking for when you went into the
20 salon with these buffers? What should these drawers look
21 like?

22 A Well, they should be disposed of in a -- in a trash
23 receptacle, according to the rules and regs.

24 Q And on Page 16, what should this have looked like?

25 A It should -- those things should have been in an

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 airtight or a closed container.

2 Q Ms. Wood, what's your training in? What are you --
3 are you a licensed cosmetologist?

4 A Yes, I am.

5 Q Okay. Are you in the medical profession in any way?

6 A No, I am not.

7 Q So can you sit there today and tell us whether or
8 not what you found in there caused cellulitis in the lady
9 who filed the complaint?

10 A No. I cannot.

11 Q But it was a violation of the rules?

12 A Yes, it was.

13 Q Did you give the inspection sheet to anyone at
14 Infinity Nails?

15 A Yes, I did.

16 Q All right. Who was that?

17 A I believe it was her father.

18 Q Her mother?

19 A Her father.

20 Q Her father? Okay.

21 DR. VAN: My father would like to be here
22 today -- oh.

23 HEARING OFFICER: Sorry about that.

24 DR. VAN: I'm sorry.

25 HEARING OFFICER: That's okay.

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 Go ahead.

2 BY MS. HARRIS:

3 Q And he signed for it; is that correct?

4 (Ms. Carla Jones joined the proceedings.)

5 THE WITNESS: I think so but I'm not
6 positive.

7 BY MS. HARRIS:

8 Q Okay. Someone signed for it; is that correct?

9 A Someone did. Yes.

10 Q Okay. And so other than the violations we talked
11 about today, was there anything else at Infinity Salon
12 that you saw?

13 A No.

14 Q And I think we talked about earlier, did you talk to
15 the people at Infinity Salon about some of the stuff in
16 the complaint, the proper pedicure procedure?

17 A Yes.

18 Q All right. Tell us what you told them.

19 A I asked them how they do it. They told me. I
20 did -- in her little packet she has a scrub, pumice type
21 scrub. It was very sharp on the edges. I explained to
22 them, if you don't knock that sharp off, it could cut the
23 foot and cause issues.

24 Q And did everybody seem to understand what you were
25 saying that day?

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 A Yes.

2 Q Okay. Was there anything else about your inspection
3 you want us to know, Ms. Wood?

4 A No.

5 MS. HARRIS: Okay. Thank you.

6 I have no other questions.

7 HEARING OFFICER: Okay. Ms. Van, do you
8 have any questions for this witness?

9 DR. VAN: Yes.

10 CROSS-EXAMINATION

11 BY DR. VAN:

12 Q On the -- I notice in the packet, if you guys would
13 turn to page -- what is that, No. 6, the inspection
14 report. This is our -- this is our original copy. As
15 you can see, there is no scratchings or markings on the
16 side, and I wanted to -- I wanted to know why you didn't
17 write it in front of us. Is that allowed, to write on
18 the inspection report after we signed it?

19 HEARING OFFICER: She -- she can answer
20 the question, if she can.

21 THE WITNESS: No.

22 DR. VAN: Okay.

23 HEARING OFFICER: All right. So is there
24 any follow up?

25 MS. HARRIS: May I see the original? I'm

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 sorry.

2 All right. Thank you.

3 REDIRECT EXAMINATION

4 BY MS. HARRIS:

5 Q So why did you write on there after the inspection
6 or why is that on there and not on the --

7 A This was an explanation as to what the checks were
8 for.

9 Q Okay. So is that anything additional than what you
10 had found or told them about --

11 A No.

12 Q -- that day at the inspection?

13 A No.

14 MS. HARRIS: That's all.

15 HEARING OFFICER: Okay. Ms. Van, do you
16 have any other questions?

17 DR. VAN: I think that's all.

18 HEARING OFFICER: All right. Committee
19 members, any questions for this witness?

20 MS. ANDERSON: I would like to know the
21 age of this customer that you had that had the
22 problem.

23 DR. VAN: She's --

24 HEARING OFFICER: Now, this would just be
25 for the witness over there.

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 MS. ANDERSON: Oh, excuse me. Oh, I'm
2 sorry. For Ms. Vera?

3 I don't have any questions for Ms. Vera.
4 I was asking the other witness.

5 HEARING OFFICER: All right. Committee
6 members, any questions for this witness?

7 All right. Ms. Harris, you may call your
8 next witness.

9 MS. HARRIS: Call Brian Nation.

10 WHEREUPON,

11 BRIAN NATION,
12 having been called for examination, and having been first
13 duly sworn by the Hearing Officer, was examined and
14 testified, as follows:

15 DIRECT EXAMINATION

16 BY MS. HARRIS:

17 Q Mr. Nation, would you please identify yourself for
18 the record.

19 A Brian Nation, Massage Therapy Inspector for the
20 Department of Health.

21 Q Mr. Nation, you're a Massage Therapy Inspector. So
22 why were you with Ms. Wood that day?

23 A When we get complaints we send two people out, and I
24 often go to help with the complaint inspections.

25 Q Okay. And so because this was a complaint

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 inspection?

2 A Correct. To backup the person on the complaint
3 inspection.

4 Q And you went out on February 17 of this year, I
5 believe?

6 A Correct.

7 Q And you heard Ms. Wood's testimony?

8 A Yes.

9 Q Is all of that accurate as to what you saw?

10 A Yes.

11 Q Okay. The pictures that we see here, can you kind
12 of describe them for us as well?

13 A Of course. When we opened up some of the stations,
14 there were the bins that held the used buffers and files,
15 and --

16 HEARING OFFICER: Sir, are you on Page 15
17 of the packet?

18 THE WITNESS: Yes. On Page 15.

19 HEARING OFFICER: All right.

20 THE WITNESS: When we opened up the
21 stations we found multiple used buffers and
22 files. And back in a cleaning area towards the
23 back of the establishment, we found the cup of
24 cleaned instruments that were not in a closed
25 receptacle and that should have been cleaned

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 and then put into a closed receptacle to keep
2 them clean.

3 BY MS. HARRIS:

4 Q And when you said in multiple drawers, was this the
5 only drawer like this or were there several?

6 A No. There were multiple drawers like that.

7 Q Okay. Is there anything else about the inspection
8 that we haven't covered already today since you were
9 there?

10 A No.

11 Q All right. And then the note that's on the side of
12 the inspection sheet, I believe, is Page 6, dirty files,
13 buffers. Is that something in addition to what you did
14 at the inspection or is that something you talked about
15 while you were there at Infinity Nails?

16 A We talked about that while we were there. When we
17 were -- when we got back out to the car, Vera looked at
18 that and made note so she would remember later exactly
19 what we had looked at to remind us what those checks were
20 about.

21 MS. HARRIS: Okay. Thank you.

22 No other questions of this witness.

23 HEARING OFFICER: Ms. Van, any questions
24 for this witness?

25 CROSS-EXAMINATION

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 BY DR. VAN:

2 Q I -- I want to ask you, when you did talk to my
3 mother about the nail files and buffers in the nail --
4 acrylic nail stations, did they have a re -- did they
5 tell you a reason for it?

6 A Yes. They indicated that those should have been
7 trash receptacles, but they were in the stations, which
8 the trash receptacles are supposed to be out of the
9 stations.

10 HEARING OFFICER: All right. Any other
11 questions?

12 BY DR. VAN:

13 Q Also, my mom told me that she wanted -- when -- do
14 you -- well, do you feel that at our nail shop, do you
15 feel that it looks -- I mean, does it feel, when you walk
16 in, is it clean? Did it --

17 A Other than these specific things, I did not see
18 anything else that was not clean.

19 HEARING OFFICER: All right. Ms. Harris,
20 anything else?

21 MS. HARRIS: No other questions.

22 HEARING OFFICER: Committee members, any
23 questions for this witness?

24 MS. BOYDSTUN: I have one.

25 THE WITNESS: Uh-huh.

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 MS. BOYDSTUN: In Picture No. 15, and you
2 see the open drawer with the dirty utensils but
3 beside it there is a trashcan.

4 THE WITNESS: Correct.

5 MS. BOYDSTUN: And so is that correct,
6 that's a trashcan?

7 THE WITNESS: Yes, the -- that was one of
8 the things that Vera pointed out to them, that
9 if those were going to be disposed of, they
10 should be in the trashcans, which were located
11 right near where these were; so --

12 MS. BOYDSTUN: Okay.

13 HEARING OFFICER: Any other questions of
14 the witness?

15 All right, sir, you may step down.

16 Ms. Harris, any other witnesses?

17 MS. HARRIS: Terrie Nash. Probably still
18 needs to be sworn in.

19 HEARING OFFICER: All right. Come on up
20 here, ma'am. There is a chair right there. I
21 need to swear you in before you go ahead and
22 give testimony.

23 WHEREUPON,

24 TERRIE NASH,

25 having been called for examination, and having been first

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 duly sworn by the Hearing Officer, was examined and
2 testified, as follows:

3 HEARING OFFICER: All right. Have a seat.

4 DIRECT EXAMINATION

5 BY MS. HARRIS:

6 Q Ms. Nash, will you identify yourself for the record?

7 A I am Terrie Nash, Cosmetology Inspector Supervisor
8 for the Department of Health.

9 Q Thank you, Ms. Nash.

10 Ms. Nash, did you do an inspection of Infinity Nails
11 and Spa?

12 A Yes.

13 Q Why did you go?

14 A I went out because we got another complaint on the
15 salon.

16 Q Okay. All right. What day did you go out? Do you
17 remember?

18 A It was February -- oh, sorry. It was not February,
19 that was the other complaint. It was April 26.

20 Q Okay. Thank you.

21 And it was in regards to a general complaint, you
22 said?

23 A It was a health and safety complaint. And there was
24 also -- where's the complaint?

25 It was a health and safety complaint.

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 Q Okay. I don't think it's part of the packet so
2 that's okay.

3 A Okay.

4 Q When you went out on April 26th, this is the part
5 I want you to tell us about, what did you find?

6 A The salon was clean. Everything that Vera had gone
7 over with them they had corrected in the salon.

8 Q Okay. So that --

9 A They got no violations.

10 Q Okay. So the brushes were in a covered container?

11 A Uh-huh.

12 Q And all the used instruments had been thrown away
13 properly?

14 A Right. There were none to be found.

15 Q And as far as you could see, the pedicure procedure
16 was what Vera had gone over with them?

17 A Right.

18 Q Was there anything else that you wanted to testify
19 about?

20 A No.

21 Q In fact, it looks like you noted on your inspection
22 sheet the salon looked good?

23 A Yes.

24 MS. HARRIS: All right. Thank you.

25 No other questions.

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 HEARING OFFICER: Ms. Van, any questions
2 for this witness?

3 DR. VAN: No. No, sir.

4 HEARING OFFICER: All right. Committee
5 members, any questions for this witness?

6 MS. JACKSON: Well, can you tell us
7 specifically what the second complaint was?

8 THE WITNESS: No, because it's not in
9 here.

10 MS. WOOD: It's not in here.

11 THE WITNESS: But I -- I know that I was
12 looking for dirty files, instruments, and I was
13 specifically looking at the pedicure area.

14 MS. HARRIS: I have one other question.

15 REDIRECT EXAMINATION

16 BY MS. HARRIS:

17 Q Ms. Nash, do you remember, was it similar to the
18 first complaint we got at all?

19 A Yes.

20 HEARING OFFICER: All right. Anyone else?
21 Anything else?

22 MS. JACKSON: So it was another infection?

23 THE WITNESS: Yes -- well, a complaint of
24 an infection. I don't know that you can say
25 that it was another infection.

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 MS. JACKSON: Okay.

2 THE WITNESS: Yeah.

3 MS. JACKSON: Complaint about possible?

4 THE WITNESS: Yes.

5 MS. BOYDSTUN: My question was, was the
6 second complaint something that involved
7 someone seeking medical attention, that you
8 know? Did they complain that they had to seek
9 medical attention?

10 THE WITNESS: I don't remember the
11 specifics. There are so many. I just know
12 that it was -- that they used unclean
13 instruments during a pedicure.

14 MS. BOYDSTUN: Okay.

15 HEARING OFFICER: Ms. Anderson?

16 MS. ANDERSON: Ms. Nash, I have a
17 question. So we have a copy of the first, and
18 I know you're the supervisor. Is there a
19 reason we don't have a copy of the second
20 complaint to make our judgment here?

21 THE WITNESS: I would not be -- I don't
22 put the packets together.

23 MS. ANDERSON: Okay. Thank you.

24 THE WITNESS: Sorry.

25 HEARING OFFICER: All right. Anyone else?

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 All right. Ma'am, you may step down.

2 THE WITNESS: Thank you.

3 HEARING OFFICER: Ms. Harris, any other
4 witnesses?

5 MS. HARRIS: Kelli Kersey.

6 WHEREUPON,

7 KELLI KERSEY,

8 having been called for examination, and having been first
9 duly sworn by the Hearing Officer, was examined and
10 testified, as follows:

11 THE WITNESS: Kelli Kersey, Arkansas
12 Department of Health, Cosmetology Section
13 Chief.

14 DIRECT EXAMINATION

15 BY MS. HARRIS:

16 Q Ms. Kersey, as the Section Chief, do you review all
17 complaints and subsequent inspections?

18 A Yes.

19 Q Okay. So you reviewed Ms. Wood's first complaint --
20 or inspection?

21 A Yes.

22 Q Okay. And you reviewed the second complaint and
23 inspection as well?

24 A Yes.

25 Q Okay. Do you know more about what that second

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 complaint was about?

2 A I believe it was another -- it was almost exactly
3 the same complaint from a different person.

4 Q Okay.

5 A Yeah.

6 Q Ms. Kersey, have -- do you know why we can't prove
7 that they caused an infection, cellulitis infection or
8 any other infection in their salon? Can you explain a
9 little bit more about that?

10 A It's really -- it's really difficult to tie an
11 infection to a procedure because you don't know what
12 happened before the procedure and you don't know what
13 happened after the procedure. You know, there could be
14 many effects, like did she shave her legs before she went
15 in there or did she go home and garden after she got her
16 pedicure. I mean there are just -- it's just very
17 difficult to prove that someone got an infection from a
18 pedicure.

19 Q But we can say that they weren't handling their
20 instruments the way they were supposed to?

21 A Correct.

22 Q And that's what we found when we went out in
23 February, correct?

24 A Correct.

25 Q And by the time we went back out in April, it

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 appeared that that had been corrected?

2 A Correct.

3 Q Okay. Ms. Kersey, do you make recommendations
4 regarding violations?

5 A Yes.

6 Q What is your recommendation today?

7 A Let me get there. Sorry.

8 It is \$150.

9 Q Okay. And can you break that down for us?

10 A Fifty -- there is three violations on the inspection
11 sheet and each one is \$50, (13)(d), (19), and (21)(a).

12 Q And for the benefit of people that don't know what
13 those numbers mean, can you tell us what (13)(d), (19),
14 and (22)(a) [sic] are?

15 A I'm sorry. Yeah. (13)(d) is they didn't have
16 enough sufficient airtight containers for sanitized
17 instruments, which goes with Picture No. 16, the brushes
18 were sanitized but they weren't in something closed,
19 airtight.

20 All bottles and labels, containers -- or they are
21 not labeled. Their bottles and stuff were not labeled.
22 And that's (19). Sorry.

23 And (21)(a) is all supplies and instruments that
24 cannot be disinfected are disposed of immediately, which
25 is Picture No. 15.

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 MS. HARRIS: Okay. Thank you, Ms. Kersey.

2 HEARING OFFICER: Ms. Van, any questions
3 for this witness?

4 DR. VAN: No.

5 HEARING OFFICER: All right. Committee
6 members, any questions for this witness?

7 All right. Ma'am, I would say you can
8 step down but you can just stay seated where
9 you are.

10 THE WITNESS: Okay. Thanks.

11 MS. HARRIS: I have no other witnesses.

12 HEARING OFFICER: Ms. Harris, anything
13 else?

14 MS. HARRIS: No other witnesses.

15 HEARING OFFICER: All right. Ms. Van, you
16 have the floor.

17 DR. VAN: Okay.

18 HEARING OFFICER: So you can explain to
19 the committee your side of the story, and then
20 again, after you're done, probably Ms. Harris
21 might have some questions for you and the
22 committee members will have some questions for
23 you as well.

24 It may be that you and your mom want to
25 say something, but I know I would appreciate it

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 and the committee would appreciate it, and
2 probably the court reporter would appreciate it
3 if you just kind of take turns. So I'm going
4 to let you start. All right?

5 WHEREUPON,

6 TUYET VAN, DDS,
7 having been called for examination, and having been first
8 duly sworn by the Hearing Officer, was examined and
9 testified, as follows:

10 DIRECT TESTIMONY

11 THE WITNESS: Okay. I first want to thank
12 all of you for allowing us to speak today.

13 First I'm going to tell you about myself.
14 I grew up in Searcy, Arkansas, and I went to --
15 when I was 16, I went -- I'm sorry. I went to
16 Searcy Beauty College and I went through the
17 nail technician school. I graduated -- while
18 working I graduated from Harding University.

19 Sorry.

20 HEARING OFFICER: That's okay.

21 THE WITNESS: Sorry.

22 HEARING OFFICER: All right. This is what
23 we're going to do. We're going to take a five
24 minute recess and then we're going to come back
25 on the record. Okay?

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 THE WITNESS: All right.

2 HEARING OFFICER: Five minutes.

3 THE WITNESS: Thank you.

4 (WHEREUPON, a break was held from
5 9:30 a.m. to 9:37 a.m.)

6 HEARING OFFICER: All right. We're back
7 on the record.

8 Ms. Van, are you ready to proceed?

9 DR. VAN: Yes, sir.

10 HEARING OFFICER: All right. Committee
11 members, are you ready to proceed?

12 All right. Ms. Van, the floor is yours
13 again. Go ahead.

14 THE WITNESS: Okay. So I graduated from
15 Harding University with a degree in biology and
16 then received my Doctorate in Dental Surgery
17 in -- at the University of Tennessee. So I am
18 currently a practicing dentist here in Little
19 Rock, Arkansas, and then I'm also a licensed
20 nail technician. I've been working -- I've
21 been doing nails since I was 16, so I have over
22 15 years of experience, but I like nails -- I
23 like teeth better.

24 But I just want to present to you,
25 Infinity Nails has been open since July '15 --

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 of 2015. You know, my brothers and sister are
2 both doc -- eye doctors and we, you know, study
3 the medical field and we know the procedures,
4 the sanitation procedures and all of that.

5 With Infinity Nails, we actually spent
6 extra to try and make it a more san -- you
7 know, a sanitary environment for our clients.
8 Especially, if you look in the papers, it's for
9 our pedicure tubs, we don't even use the
10 Whirlpool tubs that have back wash, we actually
11 have removable jets that we can disinfect in
12 the Barbicide and let it sit there and we just
13 put it in and it does the jetting motion in the
14 water. We also spent extra to use pedicure
15 liners, disposable liners for every client so
16 that way, you know, it's more sanitary because
17 sometimes -- you never know whenever someone is
18 going to scrub or disinfect a tub long enough,
19 so with these disposable liners it really helps
20 to make it a clean environment for them.

21 I want to talk about the violations that
22 we received. So \$150, we're not fighting that.
23 We just wanted to defend ourselves, because I
24 don't know if all of you know that the
25 complainant that complained about us went on

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 the news and it was broadcast nationally. She
2 went on Doctor's TV, she went everywhere,
3 Benton, Saline Courier News before she even
4 could -- before we even had a say in anything.

5 We also felt we didn't have a chance to
6 say anything, especially when the second lady
7 came out. She had her pedicure done on
8 February 14th but she came to us two weeks
9 later complaining that she had cellulitis on
10 both legs. Now, if you're in the medical
11 field, cellulitis rarely, rarely ever happens
12 in both legs. But when we saw the picture, she
13 posted all on her Facebook, her friend did, and
14 I had so many shares. With the media these
15 days and Facebook, I mean, things can just
16 spread, the negatively is just boom, like that,
17 there is thousands of shares. And, you know,
18 we are just open and we're trying to, you know,
19 advertise that, you know, we are a clean
20 environment, we use these liners and all that.
21 We use disposable, like, files and buffers.

22 All this is only 50 cents. This is
23 nothing --

24 MS. VAN TRUONG: Fifty cents.

25 THE WITNESS: -- to us. You know, our

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 customers, our clients, they -- they spend
2 extra money to make it look clean, you know,
3 for things and so we want to make it right for
4 the client. We don't want to reuse things.
5 That's dirty. We know that is.

6 But, anyways, with the -- the -- the
7 complainant, she went everywhere before we
8 could even say anything. They only gave us
9 these, the second one, she -- the news lady
10 went up to the front, Elicia Dover from KATV
11 knocked -- walked in and started just talking
12 in front of our customers loudly, and it was
13 just very unprofessional. She told us that --
14 it was 1:44. She told us that we had that --
15 until 3 o'clock to release a statement, and,
16 you know, we're trying to scramble because my
17 parents, they can't speak good English, and
18 we -- we all do, and so we try and help them,
19 you know, de -- we try to defend for them and
20 stuff like that. But it was just so quick, it
21 was just like I was working on my patient, I
22 couldn't call. My brother had to step away
23 from his patients to, you know, release a
24 statement for them.

25 But we just felt that, you know, it --

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 this whole thing has been very unfair to us as
2 a business. You know, we have malpractice
3 insurance and with cases like these, you know
4 if a person has a complaint and they want to --
5 to sue us, you know, we handle it through our
6 insurance.

7 The second lady, she just walked in on
8 March 1st and said, "Look at my legs," and
9 they were just red or some kind of rash on both
10 of them and was, like, you -- "you guys caused
11 cellulitis" in front of the whole -- the nail
12 shop with customers getting their nails done.
13 You know, that's very unprofessional. She went
14 in the back and it was just like, "What do you
15 want us to do? If you have a complaint, you
16 know, you can file, you know, give us in
17 writing and we can give it to our lawyer or to
18 the insurance company."

19 But all of these were just claims, and
20 there is no proof that they had that we did any
21 of this.

22 The first lady, she didn't go to the --
23 the doctor until four days later. You know, a
24 lot can happen between then and she can -- it's
25 going to be what she says and what we say. She

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 said that her leg was already swollen on
2 Monday, but she took off work and still didn't
3 go to the doctor, you know. With -- with our
4 bodies, it's -- it's an unsterile environment.
5 No matter if we use the cleanest instruments,
6 you put it in a tub, you know, your foot, your
7 skin, bacterial cell, there is hundreds of
8 different bacteria, you know, fungi and all
9 that sitting in the tub and, you know, no
10 matter how clean you are we try to scrub you.
11 Maybe you shave your legs beforehand. You can
12 get -- you can get the littlest cut and get
13 cellulitis -- cellulitis from it depending on,
14 you know, some people are more pre-disposed to
15 it and for -- such as, you know, what their
16 medical -- their previous medical history and,
17 you know, what they have, their medical
18 conditions.

19 And sometimes it's hard for us to --
20 you -- you think about, if we say -- somebody
21 tells us they have diabetes, it's going to be
22 hard for us to be, like, no, you cannot get
23 your toenails done because what, we're going to
24 be afraid that they might go on social media
25 and say this person didn't want me to, you

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 know, do your feet and, you know, negativity
2 just spreads quickly.

3 And so, you know, our name has been
4 damaged through all this. We -- we've been so
5 slow. We try to -- you know, we have employees
6 that work for us and we're scared to and
7 sometimes pay the, you know, the rent because
8 it's a really expensive area that we're in,
9 with the new shopping area in Benton by Kroger
10 and all of that.

11 HEARING OFFICER: Ms. Van, let me stop you
12 just for a second, because this may benefit the
13 committee a little bit.

14 THE WITNESS: Yeah.

15 HEARING OFFICER: Can you explain -- you
16 talked about what you do. Could you explain
17 who runs the operation day to day?

18 I don't -- I assume it's not you?

19 THE WITNESS: No, it's not me, but my
20 mother and father, also my little -- my sister,
21 she's a licensed nail tech too, she actually
22 manages it more than, you know, me but I still
23 go -- to this day go to the nail shop and scrub
24 people's feet when they need me. Even though,
25 you know, I am a doctor doing teeth, I work

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 four days, four and a half days a week and on
2 Fridays I still go to the nail shop and make
3 sure everything is going good. So I've tried
4 to help manage it also to make sure everything
5 is good.

6 HEARING OFFICER: So this is a family
7 business?

8 THE WITNESS: It is a family business.

9 HEARING OFFICER: Okay.

10 THE WITNESS: But we do hire employees
11 that are not part of the family.

12 HEARING OFFICER: And just for -- just for
13 the committee's benefit and clarification, are
14 you contesting the fines or are you just here
15 to tell your side of the story?

16 THE WITNESS: Part -- partly. I mean --

17 HEARING OFFICER: All right.

18 THE WITNESS: I --

19 HEARING OFFICER: What part?

20 THE WITNESS: Okay. Okay. So for the
21 first violation, it says, "Infinity Nails and
22 Spa did not have clean instruments kept in
23 separate and enclosed areas." In your packet,
24 I believe, on Page 14 -- no, 16, this -- this
25 is a cup of brushes in the sink area where our

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 clients wash their hands. It is a -- it's
2 actually just a courtesy to the client. We
3 don't use it on the customers. They actually
4 grab it and wash their hands because, you know,
5 sometimes when we do acrylic nails, the glue
6 and all of that gets stuck on it and so it
7 tries to help get all that off.

8 Now, we have a clean area and a dirty
9 area. Now, my -- my thinking about the -- it
10 being in a closed area is these clients come
11 with their hands with cuticle oil and residue
12 on their hands, and if it was in a closed
13 container, they would have to open it and then
14 take a brush out and then brush their hands,
15 and to me that's not sanitary. But to fix
16 this, we couldn't find a way to, you know, give
17 this -- because it's just a courtesy and not
18 part of the manicuring part -- protocol, we
19 just went ahead and did away with it, even
20 though our clients still want to ask about
21 those brushes, we just say it's not -- you
22 know, there is no way to dispense it to them
23 and be sanitary. Because if we kept it in a
24 box, their hands are dirty, you see.

25 HEARING OFFICER: So -- so what are you

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 asking the committee for, specifically?

2 THE WITNESS: I -- well, I'm.

3 (WHEREUPON, a brief discussion was held
4 off the record between Dr. Van and Ms. Van
5 Truong.)

6 THE WITNESS: Okay. We had an inspection
7 in September by Ms. Vera Wood and we had no
8 violations. And these -- these cups was -- it
9 was still there. So when we had no violations
10 in September, we thought that we were doing
11 everything correct. You tell us we're doing
12 something wrong, we're going to fix it like
13 that. But on this February inspection, you
14 know, from September we had no and now all of a
15 sudden we have three. And we haven't changed
16 anything at all because if we knew what we were
17 doing wrong, then we would change it because,
18 you know, that's just how it's supposed to be,
19 I guess, you know.

20 HEARING OFFICER: All right. Okay. I'm
21 going to -- I'm going to stop you for now. I'm
22 not cutting you off.

23 THE WITNESS: Yes, that's fine.

24 HEARING OFFICER: But I'm going to turn
25 you over to Ms. Harris for some questions, and

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 I'm going to turn you over to the committee for
2 some questions. They may have not any, I don't
3 know, but I will give you a chance to sum up as
4 well. Okay?

5 THE WITNESS: Okay.

6 HEARING OFFICER: All right. Ms. Harris,
7 do you have any questions for this witness?

8 MS. HARRIS: I don't. No.

9 HEARING OFFICER: All right. Committee
10 members, any questions for Ms. Van that you
11 would like to ask?

12 MS. BOYDSTUN: Mine goes back to -- my
13 question goes back to the Picture No. 15, and
14 right beside it is a trashcan, and so instead
15 of putting this in a drawer, it should have
16 gone in that trashcan that's right beside it.

17 THE WITNESS: When -- when you do acrylic
18 nails, the chemicals smelled really bad. So we
19 have -- we -- when you walk into our nail shop,
20 you know that you're not hit with that chemical
21 smell. We all -- we have -- we implemented
22 ventilation and also trying to decrease the
23 smells, so we have different trashcans to -- to
24 decrease the smell.

25 So you say they do the buffer -- if you

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 see, if we reuse them, you would see only one
2 or two or a few only, but that's a lot, and
3 this is only in the acrylic nail stations. If
4 we reuse buffers and all that, it would be all
5 in the pedicure area and -- and things like
6 that. But here is the -- the buffers and the
7 files that we use. They have to be bigger
8 because when you have acrylic nails done, it's
9 very thick, and these are not strong enough for
10 them. We do not reuse these. It's just we
11 have different waste receptacles for them.

12 My mother, she --

13 (WHEREUPON, a brief discussion was held
14 off the record between Dr. Van and Ms. Van
15 Truong.)

16 THE WITNESS: My mom explained to them
17 that it was a waste receptacle but they
18 didn't -- they didn't -- it seemed like they
19 didn't want -- they just kind of blowed -- blew
20 it off, but --

21 MS. BOYDSTUN: That the basket was a waste
22 receptacle?

23 THE WITNESS: Yes. And we only have those
24 in the acrylic nail stations because that's all
25 that -- with the -- that's where all the

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 chemicals are. Manicures, pedicures, they
2 don't smell at all and we don't -- if you
3 notice, that's just in the acrylic station.
4 There is nowhere on the other areas that have
5 them because that is a nail station.

6 MS. BOYDSTUN: I think that's what the
7 problem is.

8 THE WITNESS: Yes. And so when we were --
9 when we were told about that needing to be
10 outside, because we don't want to litter the
11 whole place with trashcans, you know, because
12 we want to make sure -- because when you open
13 it, I mean, you're just hit with the smell, and
14 so we tried to have different ones.

15 But we -- I -- we do not reuse them and
16 she didn't see us taking it out. And if we did
17 reuse them and -- it would be mixed in with the
18 clean files, but we don't reuse them. They are
19 all dirty, and there are several of them. If
20 we reuse it, it would just be one or two in a
21 little box.

22 MS. JACKSON: I just want to address the
23 reason that it may -- your inspections may have
24 been different.

25 When my inspector comes, if I have a

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 facial going on in that particular room, she
2 can't or doesn't go in there. So if you had
3 someone at those individual tables, she may not
4 have looked in those drawers and found it in
5 September. So I just wanted to make that for
6 the record.

7 MS. ANDERSON: Okay. I do have a
8 question. So -- and a comment, but I can make
9 that later too. But is this trashcan labeled
10 in any way specifically for the mom rather than
11 just trash? Trash waste?

12 THE WITNESS: No, it's a -- no, because a
13 lot of it is just kind of understood --

14 MS. ANDERSON: Okay.

15 THE WITNESS: -- with the employees.

16 MS. ANDERSON: I think that -- just like,
17 Ms. Tonya, I think that's where we probably see
18 this, because we see this a lot in lots of
19 places. It looks like your salon is very clean
20 now, but it looks like the same thing we see
21 when drawers are open, they do acrylic, they do
22 manicuring at the same tables. You may have
23 different tables, but we're not there to see
24 you working and see you doing them. All we
25 have in front of us are the pictures.

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 THE WITNESS: Okay.

2 MS. ANDERSON: So --

3 THE WITNESS: And also there is another
4 one with the dirty flip flops. We don't reuse
5 flip flops at all.

6 There is no picture of it but on the
7 inspection sheet on the side it says we have
8 dirty flip flops. In the -- well, in the -- it
9 was in the complaint where she substantiated
10 the complaint, on Page 12.

11 HEARING OFFICER: Ms. Van, at one point I
12 cut you off, you were going to explain to the
13 committee about your -- your dad and his
14 absence. I don't know if that's still relevant
15 or you want to get into it again but --

16 THE WITNESS: Oh, he would like to be here
17 but he just had surgery so he's recovering from
18 that.

19 HEARING OFFICER: All right.

20 THE WITNESS: But with the flip flops,
21 there was a -- my mom -- I just -- I guess I
22 need to explain to my mom about the right type
23 of trash receptacles, I think she didn't
24 understand. Sometimes with, you know, the
25 Vietnamese population, they just say, oh,

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 here's a basket, that's a trashcan. A lot of
2 them, you know, they don't know that it has to
3 be labeled and covered up.

4 And -- and in this case she actually had a
5 box, a clear box with a flip flop in the nail
6 drying area that the customers, after getting
7 their feet dried and all of that, they like to
8 put their sandals back on. Instead of just
9 walking up to us while we're working and
10 handing it to us, which a lot of them will do,
11 we just have them put it in that box. And so
12 in that case I feel that, you know, we -- we
13 did dispose of them, it's just not in a, I
14 guess, in a right trashcan.

15 And if you look on our picture packet, you
16 know, we now have a trashcan that's labeled and
17 all that for our customers to know -- it's on
18 the last page, to know that we do dispose of
19 that now.

20 But my main thing today is that on the
21 complaint form, what bothered me the most was
22 that she found the allegation to be
23 substantiated, when all the violations we had
24 were not in the pedicure area and it was just
25 in the acrylic area. And there is really no

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 way for you to prove that they had infection
2 from us but they would -- they damaged our name
3 before we could even say anything. And what
4 bothered me the most was right when we received
5 the violation paper, we said -- we wrote for an
6 appeal and -- and so we weren't able to -- to
7 appeal it before the inspection -- this whole
8 packet was sent to the news media to
9 misinterpret.

10 HEARING OFFICER: All right. Any other
11 questions?

12 MS. JACKSON: I have a question.

13 HEARING OFFICER: Yes, ma'am.

14 MS. JACKSON: Can I ask her?

15 HEARING OFFICER: You can ask her a
16 question.

17 MS. JACKSON: Was this packet sent to the
18 media?

19 MS. HARRIS: It was. It was requested
20 through a Freedom of Information Act request,
21 and by law, we have to turn over anything that
22 is releasable. We did redact any information
23 from it.

24 MS. ANDERSON: I too have -- as I look,
25 she mentioned social media. And as I look at

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 social media, one of the things that might draw
2 a red flag for you, just as a consumer,
3 possibly, you've made a claim that, "This nail
4 spa is founded by a family of health care
5 professionals. We strive to offer gold
6 standard in product performance, a healthy and
7 clean spa." That claim might draw people who
8 would be ready to sue you and find fault, and
9 you may want to consider that in your endeavors
10 to run your salon. Your spa looks beautiful,
11 it's very, very nice, but that might draw the
12 wrong people, where you wanted to draw people
13 that wanted good care and professional care.
14 I -- I can see where you're coming from, but
15 that might draw the wrong people, just as a
16 comment.

17 HEARING OFFICER: All right. Committee
18 members, any other questions for Ms. Van?

19 Ms. Harris, any other -- any questions for
20 Ms. Van?

21 MS. HARRIS: No.

22 HEARING OFFICER: All right. Anything
23 else you want to add, ma'am?

24 (WHEREUPON, a brief discussion was held
25 off the record between Dr. Van and Ms. Van

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 Truong.)

2 THE WITNESS: So my mom says that, you
3 know, these pictures show the violations. You
4 know, we -- we don't -- we don't mind accepting
5 these because they are here, you know, for now,
6 but we just wanted to kind of defend ourselves
7 on this. And as a recommendation from me, from
8 us to the board, for -- to prevent defamation
9 and all that, we recommend to have your reports
10 a little bit more detailed so that way it can't
11 be just misinterpreted by the media. Say, you
12 know, where did you actually find this, where
13 was it located, you know, so that way we can
14 protect ourselves too. Because we are just
15 people trying to work also, you know, just like
16 they are too. We're not here to try and hurt
17 people and, you know, just --

18 But sometimes risks happen. You know, as
19 a dentist, you know the mouth is an unsterile
20 environment. You know, I've given an injection
21 before with sterilized instruments and the
22 patient, because the mouth has so much
23 bacteria, it can get into the blood stream and
24 they can get, you know, infection from it.
25 But, you know, the patient calls and I try to

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 make it right and make sure, you know, the
2 patient gets the medication that they need.
3 But, you know, how are we supposed to know when
4 they wait, you know, four days and when the
5 news media goes and talks about nail salons
6 being unclean and then they just go on the news
7 and defame us.

8 But my mom just wants to recommend that
9 these inspection reports, she wants it to be,
10 you know, more detailed so that it can protect
11 the businesses also.

12 MS. VAN TRUONG: That's it. That's what I
13 want.

14 HEARING OFFICER: All right. Committee
15 members, any other questions?

16 All right. Anyone want to add anything
17 else?

18 Ms. Harris, you --

19 MS. HARRIS: I would like to make a
20 closing statement at this time.

21 HEARING OFFICER: All right. Go ahead.

22 MS. HARRIS: Okay. I'm going to try to
23 keep this brief.

24 First off, thank you, Ms. Van, for coming,
25 and you are correct about it being released,

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 and you are also correct that you have fixed
2 every problem. That's why I had Ms. Nash come
3 and testify about her subsequent inspection, so
4 I want to make that clear. We are only here
5 today about the fact that in February, when
6 Ms. Wood went out, there were some marked
7 violations.

8 Her sheet says that the allegations were
9 substantiated. It does say that. But Ms. Wood
10 is not an attorney so that word substantiated
11 doesn't mean the same thing that it means to me
12 and to any other attorney in the room. She was
13 looking at whether or not there were health and
14 safety violations in the salon. There were.
15 She said it was substantiated. She was not
16 implying -- and I'm sorry if it was taken this
17 way -- that the salon caused cellulitis or that
18 we felt like that part of the allegation was at
19 all true. We cannot say that. We don't have
20 any medical professionals on the Cosmetology
21 Technical Advisory staff and there is nobody in
22 our staff that can possibly tell you where an
23 infection from cellulitis came from. What we
24 can do is go to a salon and say, these are some
25 problems we see and this is what you can do to

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 fix them, and that's what we did here and
2 that's what happened.

3 And so that's a very limited thing that
4 we're here on, and I understand that a lot has
5 happened. I'm sorry for all of that. But I
6 just want to make it clear, we're really only
7 here about the February 17th day, what was
8 found on that day. And, you know, we did want
9 to make it clear to the Cosmetology Technical
10 Advisory Committee that you have cooperated
11 with those, you've taken what Ms. Wood said and
12 you've made good and significant changes in
13 your salon. And I think you've even brought
14 since this inspection show more of that and
15 more of that Terrie saw that day.

16 So I just want to clarify that for
17 everybody that that's what we're here on, that
18 all the other stuff did happen because we did
19 have to comply with the Freedom of Information
20 Act request, you're absolutely right about all
21 of that, but that's not what we're here about
22 today, and I just want to make sure everybody
23 understands that. And that's all.

24 HEARING OFFICER: All right. All right.

25 At this point I'll call the evidentiary portion

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 of the record to a close. The committee is
2 going to deliberate off the record. They will
3 announce their decision with a motion and
4 votes.

5 The normal procedure of protocol is you
6 have a motion on the allegations of fact and
7 then if you do have a finding of liability you
8 have a motion on whatever penalty you deem
9 appropriate.

10 If at any time you're in your
11 deliberations you want to ask a question of
12 staff, of attorneys, of the witnesses, of the
13 Vans, anybody at all, just let me know, we'll
14 come back on the record, because you can't ask
15 those questions off the record, it has to be on
16 the record.

17 All right. We're off the record.

18 (WHEREUPON, the CTAC retired to
19 deliberate, off the record, from 10:05 a.m. to
20 10:09 a.m., and returned with the following
21 decision:)

22 HEARING OFFICER: All right. We are back
23 on the record.

24 The committee has reached a decision in
25 this matter. I'm going to turn it over to the

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 chair for motion and votes.

2 Madam Chair.

3 MS. JACKSON: Okay. We are ready to have
4 a motion on the allegation of fact.

5 MS. BOYDSTUN: I would like to make a
6 motion for the allegation of fact of violation
7 (13) (b), (19), (21) --

8 MS. JACKSON: (d).

9 MS. BOYDSTUN: -- (d), I'm sorry, (13) (d),
10 (19), and (21) (a). We were -- we found that
11 they have been substantiated.

12 MS. JACKSON: Okay. And do we have a
13 second?

14 MS. ANDERSON: I second that.

15 MS. JACKSON: Okay. And all in favor?

16 COMMITTEE MEMBERS: Aye.

17 MS. JACKSON: Okay. And do we have a
18 motion on the finding?

19 MS. BOYDSTUN: We have a motion on the
20 finding that the fines stay as already -- at
21 what we have at \$150.

22 MS. JACKSON: Okay. Do we have a second?

23 MS. JONES: I would second that.

24 MS. JACKSON: And all in favor?

25 COMMITTEE MEMBERS: Aye.

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 HEARING OFFICER: All right. I'm going to
2 ask staff to reduce to writing the decision of
3 the committee, make certain that the respondent
4 gets a copy of it notifying her of her appeal
5 rights.

6 If there are no further questions or
7 comments, I'll call this hearing to a close.

8 (WHEREUPON, at 10:12 a.m., the
9 above-entitled proceedings were concluded.)

10 ---o---

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 MR. COBBS: Excuse me?

2 HEARING OFFICER: Did you sit through a
3 part of the first hearing that was just held?

4 MR. COBBS: Yes, sir. Yes, sir.

5 HEARING OFFICER: All right. So you sort
6 of understand how this process works a little
7 bit. I don't know if you got here through the
8 tail end or you didn't get a chance to hear my
9 speech, but the way this works is I'm the
10 hearing officer, I run the hearing for the
11 committee. This is Ms. Harris over here to my
12 left. She's the attorney that represents
13 staff. She's going to go ahead and put on her
14 case. All right? It will consist of
15 documents, exhibits, whatever it is that she's
16 got, and she'll call some witnesses. You'll
17 have a chance to question those witnesses if
18 you would like, but you've got no -- you know,
19 unless you have a particular reason to ask
20 questions, you don't have to ask questions.

21 Once she's done it will be your turn to
22 tell your side of the story to the committee.
23 I'm sure Ms. Harris may have some questions for
24 you. I'm fairly confident the committee will
25 probably have some questions for you. But it's

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 your opportunity to tell your side of the story
2 to the committee in terms of why you think
3 whatever is contained in the Order and Notice
4 of Hearing is correct or incorrect. All right?

5 MR. COBBS: Yes, sir.

6 HEARING OFFICER: So as we go through this
7 process, if at any time you don't understand
8 what's going on or if you have a question, you
9 let me know, because my job is to make certain
10 that you get a fair hearing. Okay?

11 MR. COBBS: Yes, sir.

12 HEARING OFFICER: And you're doing a fine
13 job, I'll remind you to try to give a verbal
14 response because the court reporter right over
15 here to your right is transcribing everything,
16 and if you just give a nod of your head or,
17 like a huh-uh, she won't be able to take down
18 accurate testimony. Okay?

19 MR. COBBS: Yes, sir.

20 HEARING OFFICER: All right.

21 MR. COBBS: Can you hear me?

22 COURT REPORTER: Yes, sir.

23 HEARING OFFICER: All right. I'll go
24 ahead and incorporate by reference the statute
25 and regulations that are governing this

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 proceeding.

2 By the fact that you are here, Mr. Cobbs,
3 I'm going to go under the great assumption that
4 you got a copy of the Order and Notice of
5 Hearing; is that correct?

6 MR. COBBS: Yes, sir.

7 HEARING OFFICER: All right. And do you
8 have a -- do you have a kind of a thick package
9 here?

10 MR. COBBS: Yes.

11 HEARING OFFICER: Have you been provided
12 that package?

13 MR. COBBS: Yes, sir.

14 HEARING OFFICER: All right. Why don't we
15 go ahead and swear in your witnesses.

16 You've just got one, Ms. Harris?

17 MS. HARRIS: Also Ms. Kersey.

18 HEARING OFFICER: You've got two.

19 All right. Mr. Cobbs, would you raise
20 your right hand too, please.

21 (WHEREUPON, the witnesses were sworn by
22 the Hearing Officer.)

23 HEARING OFFICER: All right. And you've
24 got a compilation package here. It looks like
25 it's 75 pages. Is that right, Ms. Harris?

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 MS. HARRIS: That is correct.

2 HEARING OFFICER: All right. I'm going to
3 go ahead and mark that as Committee's Exhibit
4 No. 1 and admit that into evidence.

5 (WHEREUPON, Petitioner's Exhibit No. 1 was
6 received in evidence.)

7 HEARING OFFICER: Mr. Cobbs, do you have
8 any documents that you brought here today that
9 you want the committee to take a look at?

10 MR. COBBS: No, sir.

11 HEARING OFFICER: All right. Ms. Harris,
12 do you want to make an opening statement?

13 MS. HARRIS: No, I do not. Thank you.

14 HEARING OFFICER: No?

15 MS. HARRIS: (Shaking head from side to
16 side.)

17 HEARING OFFICER: Because Ms. Harris has
18 waived an opening statement, Mr. Cobbs, I'm
19 going to ask you to do the same. She's not
20 opening up with a -- with an explanation of
21 what the case is going to be about, she's just
22 going to go ahead and call witnesses, but I'm
23 going to give you a chance to tell your side of
24 the story to the committee.

25 And again, if at any time you think you're

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 getting shortchanged, you let me know. Okay?

2 MR. COBBS: Yes, sir.

3 HEARING OFFICER: All right. Ms. Harris,
4 call your first witness.

5 MS. HARRIS: Call Kelli Kersey.

6 WHEREUPON,

7 KELLI KERSEY,

8 having been called for examination, and having been first
9 duly sworn by the Hearing Officer, was examined and
10 testified, as follows:

11 THE WITNESS: Okay. Kelli Kersey --
12 sorry, I've never done this before. Arkansas
13 Department of Health, Cosmetology Section,
14 Section Chief.

15 MS. HARRIS: Sorry, I called Ms. Kersey
16 out of turn here, I'm making her go first here
17 today.

18 DIRECT EXAMINATION

19 BY MS. HARRIS:

20 Q All right. Thank you, Ms. Kersey.

21 And as Section Chief you review all the complaints
22 and violations before you send them?

23 A Yes.

24 Q Okay. And you're familiar with Kool Kutts and
25 Mr. Cobbs?

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 A Yes.

2 Q If I'm looking at our statement of facts here in the
3 Order and Notice of Hearing on Page 1, Paragraph 4 --

4 A Uh-huh.

5 Q Says, "On November 18, 2013, the CTAC found that
6 respondent was in violation of 17-26-105," blah, blah.

7 Can you tell me about that?

8 A Yes. Well, we had a hearing for Mr. Cobbs on
9 November 18, 2013, and he was found guilty, and they gave
10 him a penalty of \$700. And I believe that he paid part
11 of that.

12 Q Okay. Let's back up a little bit.

13 A Oh, sorry.

14 Q No, you're absolutely fine.

15 And why was the hearing on November 18? What was
16 Mr. Cobbs brought to hearing for?

17 A His salon was unlicensed and he was unlicensed.

18 Q Okay.

19 A I'm trying to find the inspection sheet.

20 Q If you can find that in the packet?

21 A It was on October 4, 2012.

22 Q What page are you on?

23 A On Page 46.

24 Q Okay. And did Mr. Cobbs come to the hearing that
25 day on November 18th?

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 A He did.

2 Q Okay. And what did the CTAC find?

3 A They found him to be guilty, that his license was

4 expired, his personal and his -- and the salon license.

5 Q Now let's talk about has he paid any of that \$700?

6 A He has paid a portion of it.

7 Q Okay. And I believe there is a letter from

8 Mr. Cobbs regarding that in here?

9 A Yes. I believe so.

10 Q I should take better notes.

11 MS. JONES: Page 22.

12 MS. HARRIS: Thank you.

13 THE WITNESS: Sorry.

14 BY MS. HARRIS:

15 Q Okay. Twenty-two. Can you tell us what this is?

16 A He sent in \$225 for a payment to renew his personal

17 license and a -- which was \$75, and his salon license,

18 which was \$150.

19 Q Okay.

20 A And when we get that, when someone has a fine, we

21 apply it to the violation when we get any money from

22 the --

23 Q Did you explain that to Mr. Cobbs?

24 A Yes. In the letter on Page 21.

25 Q Okay.

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 A It just states what was applied, and so he had paid
2 \$475, so now he owed 125 and --

3 Q Can you just read that for us?

4 A The whole thing?

5 Q Yeah, just the remarks.

6 A Okay. "Thank you for mailing in your payment of
7 \$225. It has been applied to the portion of the past due
8 violation amount. At this time the remainder we show you
9 owe for the violation received through 4/25/2013 is \$475.
10 The amount now owed to renew your practitioner license is
11 \$125. I've also included a new salon application which
12 will need to be completed and mailed in with \$150, due to
13 we are unable to renew the salon license because of the
14 lapse of time since it had been renewed. The total
15 amount can be paid at once, which would be \$750, or the
16 violation amount may be paid first. Any money we receive
17 until the violation is paid in full will be applied to
18 the violation first."

19 Q The last sentence says, "If you have any questions
20 please contact your office"?

21 A Yes, sorry. Yeah.

22 Q After you sent out this letter -- what day was that?

23 A May 14, 2014.

24 Q Okay. And you sent it to the 1404 Franklin Street
25 address?

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

- 1 A Yes.
- 2 Q Is that still Mr. Cobbs' address?
- 3 A I believe it is. Yes.
- 4 Q Okay. So after you sent out that, did you hear from
5 Mr. Cobbs?
- 6 A I don't believe that we did.
- 7 Q Okay. Have you gotten any more payments from
8 Mr. Cobbs?
- 9 A No.
- 10 Q Okay. Ms. Kersey, I'm going to go ahead and ask you
11 what is your recommendation today and then I'll let
12 Ms. Lester testify about your most recent inspection, but
13 if you can just tell us what your recommended penalty is
14 today?
- 15 A Okay. I'm sorry, let me get that.
16 The amount for this violation is \$250.
- 17 Q Okay. And what -- break that down for us.
- 18 A Okay. Sorry. I got to get there.
19 The salon license is not current, it's \$250.
- 20 Q Okay. But Mr. Cobbs' license is current?
- 21 A I'm looking at -- sorry. It's 250 for the salon and
22 \$100 for him because his license is not current either.
- 23 Q Okay.
- 24 A So it's \$350 today.
- 25 Q For this violation?

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 A Yes.

2 Q And then there is still an order from November as
3 well?

4 A Correct.

5 Q But we're not here to reprove that?

6 A Correct.

7 MS. HARRIS: Okay. Thank you.

8 No further questions.

9 THE WITNESS: Sorry.

10 HEARING OFFICER: Mr. Cobbs, do you want
11 to ask Ms. Kersey any questions?

12 MR. COBBS: No, she is -- we have talked,
13 that's fine. She is correct.

14 HEARING OFFICER: All right. Committee
15 members, any questions for this witness?

16 MS. JACKSON: I remember you from before.
17 Did you not understand that you had to pay
18 those fines?

19 HEARING OFFICER: Hold on, Ms. Jackson.
20 This witness right here.

21 MS. JACKSON: Oh, I'm sorry. I'm sorry.

22 HEARING OFFICER: That's okay.

23 MS. JACKSON: I'm talking to him. No.

24 HEARING OFFICER: All right. Ma'am, you
25 may step down.

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 Ms. Harris, you may call your next
2 witness.

3 MS. HARRIS: Call Lavonne Lester.

4 WHEREUPON,

5 LAVONNE LESTER,

6 having been called for examination, and having been first
7 duly sworn by the Hearing Officer, was examined and
8 testified, as follows:

9 DIRECT EXAMINATION

10 BY MS. HARRIS:

11 Q Ms. Lester, identify yourself for the record.

12 A Lavonne Lester, Inspector for Cosmetology.

13 Q And have you inspected Mr. Cobbs' salon, Kool Kutts
14 II?

15 A Yes. Many times.

16 Q Okay. Did you inspect it back in May of 2013 -- or
17 2012, actually, I think?

18 A 2012 was the first one. Yeah.

19 Q Okay. Well, Ms. Kersey testified about that. Is
20 there anything else you want to add about the 2012
21 inspection?

22 A Well, at that time his shop really -- he had a lot
23 of hair on the floor, his walls were in bad repair, just
24 stuff like that.

25 Q Okay.

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

- 1 A But he's fixed all of that since.
- 2 Q So we're not here about any of that today?
- 3 A Huh-uh.
- 4 Q Okay. We're here today about this most recent
5 inspection, which looks like January 27, 2016?
- 6 A Yes.
- 7 Q Okay. And was that routine or was it in response to
8 a complaint?
- 9 A Routine.
- 10 Q When you went out on the January 27th, you said
11 the health and safety problems have been fixed?
- 12 A (Nodding head up and down.)
- 13 Q Okay. What was still a problem? Why are we here
14 today?
- 15 Why are we here today? What was the problem?
- 16 A He had -- his license have expired. He hasn't
17 renewed.
- 18 Q Okay. Did you talk to Mr. Cobbs about that that
19 day?
- 20 A I did.
- 21 Q Okay. Tell us about that conversation.
- 22 A Well, actually, we talked because he had no license
23 in the salon at all, not the -- not his shop or his
24 personal license. Nothing was posted, and --
- 25 Q So not even the expired license was posted?

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 A (Shaking head from side to side.)

2 Q And what did he say? Do you remember?

3 A I can't recall.

4 Q Okay. That's fine. Is there anything else about
5 your inspection you want us to know today?

6 A No.

7 Q Did he deny having an expired license, salon and
8 practitioner?

9 A I don't think he did, no. I don't think he denied
10 it.

11 MS. HARRIS: Okay. Thank you.

12 HEARING OFFICER: Mr. Cobbs, any questions
13 for this witness?

14 MR. COBBS: Oh, no, sir.

15 HEARING OFFICER: All right. Committee
16 members, any questions for this witness?

17 All right. Ma'am, you may step down or
18 stay seated, your prerogative.

19 THE WITNESS: Thank you.

20 HEARING OFFICER: Ms. Harris?

21 MS. HARRIS: I have no further witnesses.

22 HEARING OFFICER: All right. Mr. Cobbs,
23 the floor is yours. Would you be so kind to
24 explain to the committee your side of the story
25 and why you're here today and what you're

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 asking from them.

2 WHEREUPON,

3 BERNARD COBBS,

4 having been called for examination, and having been first
5 duly sworn by the Hearing Officer, was examined and
6 testified, as follows:

7 DIRECT TESTIMONY

8 THE WITNESS: Yeah. I'm here today on --
9 on the violation that was given to me, and
10 it's -- I'm not denying this, it's true, I did
11 not have my shop license when she came in.
12 They are -- they was expired, but I was on the
13 assumption that one of the license -- because
14 I've been doing cosmetology for 33 years, and
15 y'all had a ruling that after 30 years you
16 don't have to apply for shop license? I mean
17 not shop license, personal license.

18 MS. KERSEY: Do what now? I'm sorry. I'm
19 sorry.

20 THE WITNESS: You had a ruling that you
21 don't have to apply for personal license after
22 30 years of being in business for 30 years, and
23 I've been in business for 33 years.

24 MS. KERSEY: Well, it's a lifetime
25 license.

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 THE WITNESS: Right, lifetime license.

2 MS. KERSEY: It's called lifetime. You
3 still have to apply for that, though. You
4 can't -- it's not just given to you. You have
5 to apply for it. You have to be 65 and worked
6 for 30 years.

7 THE WITNESS: Oh, I thought it was just
8 30. Because a lot of us next door, they were
9 saying the same thing, 30 years. Okay. I
10 misunderstood that part.

11 MS. KERSEY: Yeah, but the law is --

12 THE WITNESS: It will be a while until I
13 turn 65.

14 MS. KERSEY: Yeah, you have to have both.

15 THE WITNESS: Okay. Well I have to be 50
16 years then. No. I mean it's -- it's valid,
17 and some of it is on my behalf, some of it, I
18 went through a lot of personal things, but
19 that's not -- we're not here for that.

20 HEARING OFFICER: All right. Committee
21 members, any questions?

22 MS. JACKSON: Well, he tried to pay for
23 his licenses -- or you did. Did you not
24 understand that the other fines had to be paid
25 before you could renew the licenses?

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 THE WITNESS: Not until I got the letter.

2 Huh-uh.

3 HEARING OFFICER: Ms. Harris, I apologize.
4 I leap frogged right over you and went directly
5 to the committee. Do you have any questions
6 for Mr. Cobbs?

7 MS. HARRIS: No, sir, I do not. Thank
8 you.

9 HEARING OFFICER: I figured if you had you
10 would have spoken up.

11 MS. HARRIS: Yeah.

12 HEARING OFFICER: Anyone else from the
13 committee, any questions from Mr. Cobbs?

14 MS. BOYDSTUN: I have a question. When
15 was the last time your license was current?

16 HEARING OFFICER: Is that directed at
17 Mr. Cobbs?

18 MS. BOYDSTUN: Yes.

19 THE WITNESS: I was asking Ms. Lester.

20 MS. LESTER: You wanted me to answer?

21 THE WITNESS: Oh, probably 2013. 2013.

22 MS. BOYDSTUN: On the -- I'm looking at
23 the past inspection report that's in our
24 packet, and in 2012 you were marked for no
25 current license, 2013, again, and then in 2016.

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 THE WITNESS: I had them but -- I had them
2 in between there somewhere. I don't know
3 exactly what year, but I've had them.

4 MS. BOYDSTUN: But you've been getting
5 them for 30 years?

6 THE WITNESS: Yes, ma'am. It just, the
7 last few just been chaotic.

8 HEARING OFFICER: Ma'am?

9 MS. JONES: So you -- the last time you
10 had them renewed before you got them renewed
11 now was 2013?

12 THE WITNESS: If that's what it said, but
13 I think I've had them renewed in between there,
14 in between before this -- 2013, I do believe.
15 But then --

16 MS. JONES: And the time -- I'm sorry?

17 THE WITNESS: No, go ahead.

18 MS. JONES: And the time that you said you
19 didn't get them renewed after then was because
20 you thought that the 30 years --

21 THE WITNESS: Personal license. Personal
22 license, yes.

23 MS. JONES: You thought the 30 years
24 applied to you not having to have them renewed?

25 THE WITNESS: Yes, ma'am.

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 MS. JONES: That's why you haven't renewed
2 them?

3 THE WITNESS: Yes. And really my mother,
4 she has four -- four sons that does hair, and
5 she normally -- after '12 I think she -- after
6 2012 she was paying for our license. For our
7 Christmas present that's what she did. And so
8 that's one reason, I guess, I really didn't
9 look at it in 2012 and '13. But I know when
10 she told me she didn't, I know one year I went
11 on and did them myself. She said she forgot
12 about me when she did the other thing, so I --
13 I know somewhere in there I did.

14 HEARING OFFICER: Madam Chair?

15 MS. JACKSON: Carla, I don't think he
16 understood you. He did try to renew them after
17 he saw us the last time, but that money went to
18 his past fine when he thought he was renewing
19 his licenses.

20 MS. JONES: Okay.

21 HEARING OFFICER: All right. Anyone else?

22 What is it that you want the committee to
23 do for you, Mr. Cobbs?

24 THE WITNESS: I really -- I mean I was
25 reading some of the consequences of -- of -- of

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 not having them now, but I -- I would like to
2 pay the fine and -- I mean I don't want them
3 suspended, I mean saying they are suspended or
4 revoked or all that, and I would rather not do
5 that, but I would like to have a chance now to
6 pay it.

7 HEARING OFFICER: All right.

8 THE WITNESS: And I have some today to --
9 I didn't know how much it was going to be
10 today, but to pay it.

11 HEARING OFFICER: All right. Ms. Harris,
12 do you want to sum up anything? Or do you just
13 want to let the committee take over?

14 MS. HARRIS: I don't think I have
15 anything.

16 MS. ANDERSON: I do have a question to
17 add.

18 HEARING OFFICER: Yes, ma'am.

19 MS. ANDERSON: Because I think his -- his
20 knowledge might be based on what his current
21 fines are based what he paid but we know that
22 his current license is not active because he
23 paid on the previous violations in '13; is that
24 correct?

25 MS. JACKSON: When he thought he was

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 renewing his licenses and it went to his fines.

2 MS. ANDERSON: Okay. So what is the
3 total, Ms. Kersey -- can I ask Ms. Kersey a
4 question, please?

5 HEARING OFFICER: Sure.

6 MS. ANDERSON: What is the total that he
7 owes?

8 MS. KERSEY: He owes 475 from the
9 previous, he owes the 250.

10 MS. ANDERSON: Current?

11 MS. KERSEY: Uh-huh.

12 MS. ANDERSON: Okay.

13 MS. KERSEY: 150, and then he owes to
14 renew his licenses, which would be 125 for his
15 personal and he would have to do a new salon at
16 150.

17 MS. ANDERSON: So he owes \$1,175; is that
18 correct?

19 MS. KERSEY: Yes.

20 MS. ANDERSON: That's his total that he
21 owes to bring himself current?

22 MS. KERSEY: Correct.

23 HEARING OFFICER: Is -- what -- I hate to
24 ask this question, I'm just doing this for your
25 benefit, Mr. Cobbs, because you mentioned a

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 lifetime license. Is it more expensive for him
2 to apply for a lifetime license than a yearly
3 license?

4 MS. KERSEY: Well, he doesn't qualify.

5 HEARING OFFICER: Okay. All right.
6 Because he's not 65 yet?

7 MS. KERSEY: Because he's not 65.
8 Correct.

9 HEARING OFFICER: All right.

10 MS. ANDERSON: Can I ask Mr. Cobbs a
11 question?

12 HEARING OFFICER: Sure.

13 MS. ANDERSON: Mr. Cobbs, at this time you
14 have a current violation and you have past
15 violations and you have some other violations.
16 Is there a way for you to bring this current --

17 THE WITNESS: You say is --

18 MS. ANDERSON: -- or are you making
19 payments to the cosmetology section at this
20 time? Have you been making any payments or any
21 efforts to make payments? Are you aware there
22 is payments you could be making?

23 THE WITNESS: I can -- like I say, I
24 didn't make but just that one payment. Like I
25 say, I had some personal things. Made -- I

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 mean, I'm not falling on the sympathy of the
2 board but my son passed right during that time
3 and I had to pay for all of that, the funeral.
4 He was 30 years old, no insurance, he had had a
5 seizure attack and he died and I had to pay for
6 all of that. And then I got into a personal
7 matter, I had to pay a lawyer, it was \$10,000,
8 I had to pay all of that, so I just got behind.
9 But all of that is said and done, paid for, I
10 just want to pay this here, keep my -- keep my
11 shop and won't see y'all no more.

12 MS. ANDERSON: Thank you.

13 THE WITNESS: Not on this basis.

14 HEARING OFFICER: All right. Anyone have
15 anything else they would like to ask of anyone?

16 MS. JACKSON: I just have a question as to
17 can today's fees be waived, what we're here for
18 today? Is that --

19 MS. HARRIS: If you want, yes.

20 MS. JACKSON: Okay.

21 HEARING OFFICER: The fine or the --

22 MS. JACKSON: The fine.

23 HEARING OFFICER: I think that's your
24 prerogative. I could be wrong about that
25 but --

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 MS. JACKSON: Okay.

2 HEARING OFFICER: All right. Anyone have
3 anything else?

4 Okay. At this point in time I'm going to
5 close down the evidentiary portion of the
6 record. And you need a motion and votes on the
7 allegations as well as whatever your proposed
8 fine may or may not be. If at any time you
9 have any questions you want to ask while you're
10 deliberating off the record let me know, we'll
11 come back on the record so you can ask them.

12 We are off the record.

13 (WHEREUPON, the CTAC retired to
14 deliberate, off the record, from 10:42 a.m. to
15 10:53 a.m., and returned with the following
16 questions:)

17 HEARING OFFICER: We are back on the
18 record. The committee has some questions.

19 Ms. Anderson, go ahead.

20 MS. ANDERSON: Can you share with us what
21 you were planning to pay on this today?

22 MR. COBBS: Can I not answer that question
23 and let me hear another question first?

24 HEARING OFFICER: Say that again now
25 Mr. Cobbs?

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 MR. COBBS: I say can I not answer that
2 question, can I hear another question first?

3 HEARING OFFICER: Okay. Well, why can --

4 MR. COBBS: Okay. The reason why I say
5 that, okay, I was planning on paying something
6 today but going on and listening to discussion,
7 discussion, discussion, I have to have my
8 license. Okay. I see that now. I paid trying
9 to get my license that I couldn't get them
10 back, you know the letter came then and then,
11 like I say, different things came up. I was
12 going to pay at least \$400 today because I was
13 thinking the 400 plus whatever else today
14 then -- but see, if I don't have my license and
15 she come back around, I'll get fined again.
16 And so I can see what he was talking about is
17 I've got to have my license to work. I mean,
18 but if I don't, I don't want to be closed down,
19 as one of the things were saying, closed down
20 or fined or suspended or whatsoever like that,
21 so I -- but then if they are going to try for
22 the full thousand dollars, well, \$1,100, really
23 my payment went down. Because if I've got to
24 pay \$1,000, I've got to go back home and work
25 up to try to come up to get this out of the

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 way.

2 HEARING OFFICER: Does that answer your
3 question?

4 MS. ANDERSON: Kind of sort of.

5 HEARING OFFICER: All right. Ms. Jackson?

6 MS. JACKSON: This question is for Kelli.

7 HEARING OFFICER: Sure.

8 MS. JACKSON: Is there a way to get them
9 his license and put him on a payment plan?

10 MS. KERSEY: Well, we can. I mean we
11 stopped payments because this is what happens,
12 they renew their license and they never make
13 another payment; but they already have their
14 license at that point so they don't care about
15 the fine.

16 MS. ANDERSON: Uh-huh.

17 MS. KERSEY: I mean we -- I mean we
18 certainly can, but just from experience, I can
19 tell you what happens -- what's going to
20 happen.

21 MS. HARRIS: It's also an accounting
22 policy, it automatically applies it to past due
23 amounts before it will apply it to --

24 MS. KERSEY: New. Right.

25 HEARING OFFICER: Mr. Cobbs?

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 MR. COBBS: Okay. How long do you give me
2 to pay the fine?

3 I know you want it ASAP, but how long
4 would you give me --

5 MS. ANDERSON: That's a -- what this is --
6 we only give you the fine. These people make
7 that --

8 MR. COBBS: Okay. During your
9 recommendation, since you brought it up, your
10 recommendation is what?

11 MS. ANDERSON: After the time lapse, I
12 would -- I would say it's to you. If -- if I
13 were -- you know, I teach students every day to
14 abide by the rules and regulations --

15 MR. COBBS: Sure.

16 MS. ANDERSON: -- the policies and
17 procedures, and if they don't there is all
18 kinds of things that can happen. And I just
19 feel like there has got to be some
20 accountability in -- and I appreciate
21 everything that's happened to you, I'm very
22 sorry for those things, but I feel like there
23 is still an accountability here of this \$1,175
24 that should be paid within 30 days for you to
25 keep that license.

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 I've sat on this committee a long time,
2 Mr. Cobbs, and we've not pulled anyone's
3 license, there has been some gross violations.
4 Yours is kind of getting up there. But I
5 believe that lots of fines have been paid to
6 keep those businesses open, and I think that's
7 a real priority, in my opinion. But 30 days
8 would be maximum, because most -- most people
9 would allow you that doing business. I don't
10 know what Department of Health Cosmetology
11 Section will allow you. That is not my call.
12 That is not this committee's call.

13 MR. COBBS: You're a hard person.

14 MS. ANDERSON: I've been told that. Yes,
15 sir.

16 HEARING OFFICER: All right. We're still
17 on the record. Do we need to go off the record
18 at this point?

19 Are we done?

20 MS. BOYDSTUN: I have another question.

21 HEARING OFFICER: Sure.

22 MS. BOYDSTUN: My question is, after --
23 after you got the violations for not having a
24 license, did you still continue to work without
25 a license?

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 MR. COBBS: Okay. As was stated earlier,
2 I did, and then I tried to attempt to pay that
3 but the fines went somewhere else -- I mean the
4 money went toward the fine and not toward the
5 license.

6 MS. BOYDSTUN: But are you still actively
7 working?

8 MR. COBBS: Now I am, yes. I had -- I did
9 take off but now I'm back.

10 MS. BOYDSTUN: Okay.

11 HEARING OFFICER: All right. Anyone else?
12 Okay. We're back off the record.

13 (WHEREUPON, the CTAC retired to
14 deliberate, off the record, from 10:58 a.m. to
15 11:16 a.m., and returned with the following
16 questions:)

17 HEARING OFFICER: We're back on the
18 record.

19 MS. JACKSON: If we go with Carla's
20 recommendation, which we know that probably two
21 people will vote down, two against one, how do
22 I pick which recommendation to go with?

23 MS. HARRIS: Who made a motion first?

24 MS. KERSEY: They haven't made it yet.

25 MS. JACKSON: There is two that want to be

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 made and I know that more than likely one will
2 be voted down two to one and one will be voted
3 yes, two to one.

4 MS. HARRIS: So what you would do is,
5 someone will make a motion, you call for
6 discussions on the motion. When you go to
7 amend the first motion and then you have to
8 vote on the amendment.

9 HEARING OFFICER: That's the procedure.

10 MS. JACKSON: You're going to have to walk
11 me through that.

12 HEARING OFFICER: Do you want to do
13 that --

14 MS. JACKSON: Do you want to go off the
15 record for a moment?

16 HEARING OFFICER: Do you want to do that
17 on the record or off the record?

18 MS. JACKSON: Can we go off the record for
19 a moment?

20 HEARING OFFICER: We'll go off the record.

21 (WHEREUPON, the CTAC retired to
22 deliberate, off the record, from 11:17 a.m. to
23 11:18 a.m., and returned with the following
24 decision:)

25 HEARING OFFICER: We're back on the

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 record. The committee has tentatively reached
2 a decision on the matter.

3 I turn it over to the chair for motion and
4 votes. Madam Chair.

5 MS. JACKSON: We are back on the record.
6 And I believe that Tonya is ready to have a
7 motion on the allegations of fact.

8 MS. BOYDSTUN: I would make a motion that
9 we accept the allegations of fact as they stand
10 in the Order and Notice of Hearing.

11 MS. JACKSON: Okay. Anyone second that?

12 MS. ANDERSON: I second that.

13 MS. JACKSON: And all in favor?

14 COMMITTEE MEMBERS: Aye.

15 MS. JONES: On the allegation of fact?

16 MS. JACKSON: Okay. Let the record show
17 that all voted in favor for the allegations.

18 Are we -- do we have a motion for motion
19 on the finding?

20 MS. JONES: I have a motion.

21 MS. JACKSON: Okay.

22 MS. BOYDSTUN: Do I also have a motion at
23 the same time or do I wait to have a motion?

24 MS. JACKSON: Okay. Carla, go ahead
25 and -- with your motion on the finding.

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 MS. JONES: On the findings, I would make
2 a motion that the violations of finding
3 be -- the violation of findings of the
4 previously \$475, 250, and \$100, for a total of
5 825, that those violations be cut in half to
6 \$412.50. And I would like to make a motion
7 that the violation on the license for 350
8 stand, for a total of \$762.50.

9 MS. JACKSON: Do I have a second to that
10 motion?

11 Let the record show that there was no
12 second to that motion.

13 HEARING OFFICER: All right. So you have
14 to have another motion.

15 MS. JACKSON: Okay. Tonya, do you have a
16 motion on the findings?

17 MS. BOYDSTUN: I make a motion on the
18 findings that they stay as currently stand, a
19 violation for \$475, \$250, \$150, \$100, and
20 \$1,800 [sic], for a total of \$1,175.

21 MS. ANDERSON: I second that motion.

22 MS. JACKSON: All in favor?

23 MS. ANDERSON: Aye.

24 MS. BOYDSTUN: Aye.

25 MS. JACKSON: Let the record reflect show

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 that --

2 MS. HARRIS: Ask if there is any opposed.

3 MS. JACKSON: I'm sorry.

4 Any opposed?

5 MS. JONES: Aye.

6 MS. JACKSON: Okay.

7 HEARING OFFICER: The motion passes, Madam
8 Chair, two to one.

9 I'm going to ask staff to reduce the
10 decision of the committee to writing and make
11 certain the respondent gets a copy of it along
12 with a cover letter that notifies him of his
13 appeal rights.

14 If there are no further questions or
15 comments, I call this hearing to a close.

16 (WHEREUPON, at 11:20 a.m., the
17 above-entitled proceedings were concluded.)

18 ---o---

19

20

21

22

23

24

25

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 HEARING OFFICER: So you've sat through a
2 couple of hearings, you got sort of a better
3 grasp on how the process works?

4 MS. ROGERS: Yes, sir.

5 HEARING OFFICER: But for the record I'm
6 going to go over it with you.

7 MS. ROGERS: Yes, sir.

8 HEARING OFFICER: As you know at this
9 point, my name is Charlie Moulton, I'm the
10 Administrative Hearing Officer for this matter,
11 which means I just run the hearing. The
12 decision is made by the committee.

13 And why don't we, for the record,
14 Ms. Harris, could you identify yourself,
15 please.

16 MS. HARRIS: I'm Elizabeth Harris, I'm an
17 attorney for the Department of Health.

18 HEARING OFFICER: All right. Ms. Rogers,
19 formally, would you identify yourself, please.

20 MS. ROGERS: I'm Suzanne Rogers,
21 cosmetologist.

22 HEARING OFFICER: Okay. All right. And I
23 will incorporate by reference both the statutes
24 and the regulations that are governing this
25 particular hearing.

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 I know that you're going to be giving some
2 testimony.

3 Ms. Harris, who else do you have in terms
4 of your witnesses?

5 MS. HARRIS: Just Kelli.

6 HEARING OFFICER: Just one?

7 Just one?

8 MS. HARRIS: Just one.

9 HEARING OFFICER: All right. Ladies,
10 would you raise your right hands.

11 (WHEREUPON, the witnesses were sworn by
12 the Hearing Officer.)

13 HEARING OFFICER: All right. Ms. Harris,
14 do you want to make a -- and, ma'am, oh, I will
15 just -- you already understand the ground
16 rules. It's Ms. Harris' burden, she's going to
17 go first, she's going to call a witness. If
18 you want to ask the witness questions, that's
19 fine. Once she rests, it will be your turn to
20 tell the committee why you're here, what it is
21 that you're looking for from them. And then
22 once everyone is comfortable with they have
23 fleshed out all the facts and the record is
24 complete, we'll go ahead and go off record,
25 they will deliberate, we'll come on and deal

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 with motions and votes.

2 MS. ROGERS: Yes, sir.

3 HEARING OFFICER: Madam Chair, if you have
4 a --

5 MS. JACKSON: I am from Russellville,
6 which is where she's from, but I don't vote so
7 I don't think that I need to excuse myself.

8 HEARING OFFICER: Let me clarify for you.

9 MS. JACKSON: Okay.

10 HEARING OFFICER: It's been -- it's -- if
11 you -- if it's just a Russellville connection,
12 if you -- if you know the respondent --

13 MS. JACKSON: I don't know her.

14 MS. ROGERS: No.

15 HEARING OFFICER: Okay. Then I don't
16 think it's necessarily a problem. If you knew
17 her, then -- then even though you don't vote,
18 my suggestion would always be that you recuse
19 completely --

20 MS. JACKSON: Uh-huh.

21 HEARING OFFICER: -- because if you're
22 part of the deliberations and you try to
23 influence them --

24 MS. JACKSON: Uh-huh.

25 HEARING OFFICER: -- it's still -- even

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 though you don't vote, you're still trying to
2 influence the outcome.

3 MS. JACKSON: Okay.

4 HEARING OFFICER: But just a Russellville
5 connection without something more shouldn't
6 preclude you from participating.

7 MS. ROGERS: It doesn't bother me at all
8 that you --

9 HEARING OFFICER: Well, and there you go.

10 MS. ROGERS: Yeah. No.

11 HEARING OFFICER: That is -- there is
12 your -- she has the ability to call it, so to
13 speak, and so if she -- if she doesn't have a
14 problem, that's fine. All right. Anything
15 else that we need to get through?

16 We've got a compilation package,
17 exhibits -- oh, my. My page numbers ran out on
18 me.

19 MS. HARRIS: It's 11 pages.

20 HEARING OFFICER: 11 pages. I'm going to
21 go ahead and mark that as Committee's Exhibit
22 No. 1 and admit that into evidence.

23 (WHEREUPON, Petitioner's Exhibit No. 1 was
24 received in evidence.)

25 HEARING OFFICER: Ma'am, did you bring

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 anything with you today --

2 MS. ROGERS: No, sir.

3 HEARING OFFICER: -- that you want the
4 committee to take a look at? No?

5 MS. ROGERS: No, sir.

6 HEARING OFFICER: All right. Ms. Harris,
7 do you want to make an opening statement or do
8 you want to call a witness?

9 MS. HARRIS: I'll just call Ms. Kersey.

10 HEARING OFFICER: All right. Please
11 proceed.

12 WHEREUPON,

13 KELLI KERSEY,

14 having been called for examination, and having been first
15 duly sworn by the Hearing Officer, was examined and
16 testified, as follows:

17 DIRECT EXAMINATION

18 BY MS. HARRIS:

19 Q Please, identify yourself.

20 A Kelli Kersey, Arkansas Department of Health,
21 Cosmetology Section, Section Chief.

22 Q Ms. Kersey, you've stated it several times today,
23 but for the purposes of this hearing, in your role as
24 Section Chief, do you review all complaints, inspections,
25 and violations?

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

- 1 A Yes.
- 2 Q And you approve those?
- 3 A Yes.
- 4 Q Was there an inspection done of Serenity Skin Care
5 and Salon?
- 6 A Yes.
- 7 Q On December 24, 2015?
- 8 A Yes, ma'am.
- 9 Q Okay. And what -- who did that inspection?
- 10 A A Lindsey Torrence.
- 11 Q Is Ms. Torrence still employed with ADH?
- 12 A She is no longer with the section, no.
- 13 Q Okay. But just routinely tell us what happens when
14 you get these inspection reports back into the office?
- 15 A It's reviewed and it's given to Amanda and Amanda
16 sends out a violation letter that I approve, you know, I
17 sign and approve.
- 18 Q Okay.
- 19 A And we check their license to make sure that -- this
20 is a licensing issue, so we make sure, we check the
21 license and make sure that it isn't renewed and it wasn't
22 just the old license hanging.
- 23 Q So let's go back to what we found on the inspection
24 sheet.
- 25 What was found on Ms. Torrence's inspection sheet?

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 A That Suzanne Smith's license was expired on
2 9/22/2015.

3 Q Okay. How long from the date of inspection was
4 that?

5 A Three months, four months.

6 Q Okay. All right. And so you said you would go back
7 at the office and check the unlicensed or expired license
8 violations?

9 A Yes.

10 Q Did you do that?

11 A Yes, I did.

12 Q Okay. And what did you find?

13 A She has not renewed -- when we put this in the
14 system, I believe it was in February, February 25th,
15 and she has not renewed as of today either.

16 Q So as of today, July 18th, I believe --

17 A Yes.

18 Q -- 2016, she still has not renewed her license?

19 A Correct.

20 Q Okay. What is your recommended penalty today?

21 A \$100.

22 Q All right. Have you spoken to Ms. Rogers at all?

23 A I have not.

24 Q No?

25 So you don't know why she hasn't paid?

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 A Correct.

2 MS. HARRIS: All right. That is all I
3 have.

4 THE WITNESS: Okay.

5 HEARING OFFICER: Ma'am, any questions for
6 this witness?

7 MS. ROGERS: No, sir.

8 HEARING OFFICER: All right.

9 MS. HARRIS: No other witnesses.

10 HEARING OFFICER: No other witnesses. You
11 rest?

12 Ma'am, the floor is yours. Why are you
13 here today?

14 WHEREUPON,

15 SUZANNE ROGERS,
16 having been called for examination, and having been first
17 duly sworn by the Hearing Officer, was examined and
18 testified, as follows:

19 DIRECT TESTIMONY

20 THE WITNESS: Well, because, as she
21 stated, which it was like a complete error on
22 my part, that -- I mean it's my fault that I
23 did not renew, but I was thinking that I had
24 another year, if you want to know the truth.
25 But we had also moved locations and then, of

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 course, I, as everybody always has a story of
2 things that go on in life that, you know, so it
3 kind of just got, I guess, in the back of my
4 mind. But, anyway, so it is completely totally
5 my fault that I did not renew. But, as I said,
6 I thought that I had another year because of
7 the two year thing. And, honestly, ever since
8 they have switched up on the -- you know, doing
9 it two years or -- or four years, right? Two
10 or four? Is that how it goes?

11 MS. KERSEY: It's just two.

12 THE WITNESS: Okay. Just two, okay. I
13 have been so backwards ever since that has
14 started. Don't ask me why but I have been.
15 But, anyway, as up until I realized that they
16 were expired, I have not really technically
17 been working because I've been off of work due
18 to health issues. But I'm not going to say I
19 haven't worked because I have. So between life
20 and health, and that would be my case.

21 HEARING OFFICER: So -- so what is it that
22 you're asking the committee to do for you today
23 or do you have something that you would like
24 them to recommend?

25 MS. ROGERS: I don't really know. I mean,

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 I would like to get my license renewed, that
2 would be great, but -- and I've not -- I mean,
3 it's just been these last couple of months
4 because of not working and money issues that
5 I've had a problem with trying to get them
6 renewed. But, yes, I would like to get them
7 renewed.

8 HEARING OFFICER: All right. Ms. Harris,
9 do you have any questions?

10 MS. HARRIS: I don't think so. No.

11 HEARING OFFICER: Committee members, any
12 questions?

13 MS. JACKSON: So the only thing stopping
14 you from renewing the license is the \$100 fine
15 as well as the renewal fee or --

16 THE WITNESS: I'm sorry. What now?

17 MS. JACKSON: Are the only two things
18 stopping you from renewing your license the
19 fine and your renewal fee or is something else
20 coming into --

21 THE WITNESS: It's just money in general.

22 MS. JACKSON: Okay.

23 THE WITNESS: Just issues altogether.

24 HEARING OFFICER: Any other questions?

25 I see everybody going through the file so

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 I'm going to give you a minute or two to do
2 that unless you've satisfied yourselves.

3 MS. BOYDSTUN: Have you ever not renewed
4 your license before?

5 THE WITNESS: No, ma'am.

6 HEARING OFFICER: All right. Anyone else?

7 If not, I will go ahead and -- all right.

8 Ms. Harris, do you want to make a summation
9 or --

10 MS. HARRIS: I'm good.

11 HEARING OFFICER: All right. Ma'am, do
12 you have anything else you want to add before I
13 shut the record down?

14 MS. ROGERS: No, thank you.

15 HEARING OFFICER: No?

16 MS. ROGERS: (Shaking head from side to
17 side.)

18 HEARING OFFICER: Okay. I'm going to go
19 ahead and close the evidentiary portion of the
20 record down for the time being. If the
21 committee has any questions that they would
22 like to ask of either the witnesses or
23 attorney, just go ahead and let me know, we'll
24 come back on the record.

25 We are off the record.

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 (WHEREUPON, the CTAC retired to
2 deliberate, off the record, from 11:40 a.m. to
3 11:43 a.m., and returned with the following
4 decision:)

5 HEARING OFFICER: We're back on the
6 record.

7 The committee has reached a decision in
8 this matter. I'm going to turn it over to the
9 chair for motion and votes. Madam Chair.

10 MS. JACKSON: Okay. I believe Tonya is
11 going to make a motion on the allegation of
12 fact.

13 MS. BOYDSTUN: I make a motion that we
14 accept the allegations of facts for the hearing
15 today.

16 MS. JACKSON: Okay. And then -- I'm
17 sorry. Anyone want to second that?

18 MS. ANDERSON: Second that.

19 MS. JACKSON: Okay. Let the record show
20 that the motion has been made and a second.

21 And all in favor?

22 COMMITTEE MEMBERS: Aye.

23 MS. JACKSON: All opposed?

24 Okay. Motion has passed.

25 Tonya, do you want to make a motion on the

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 finding?

2 MS. BOYDSTUN: I will also make a motion
3 on the findings for a \$100 violation for
4 nonrenewal of license.

5 MS. JACKSON: Anyone want to second?

6 MS. ANDERSON: I second that.

7 MS. JACKSON: Okay. All in favor?

8 COMMITTEE MEMBERS: Aye.

9 MS. JACKSON: Okay. Let the record show
10 that the motion and a finding of a \$100
11 violation passed.

12 HEARING OFFICER: All right. I will
13 request that the staff reduce the committee's
14 decision to writing, make certain that the
15 respondent gets a copy of it with a cover
16 letter notifying her of her appeal rights.

17 If there are no further questions or
18 comments, I'll call this hearing to a close.

19 Thank you.

20 (WHEREUPON, at 11:44 a.m., the
21 above-entitled proceedings were concluded.)

22 ---o---

23

24

25

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 (WHEREUPON, Petitioner's Exhibit No. 1 was
2 received in evidence.)

3 HEARING OFFICER: I will incorporate by
4 reference both the statutes and regulations
5 that are governing this administrative
6 proceeding. I will note for the record that it
7 is, approximately, 11:45 a.m., on the morning
8 of July 18th.

9 Ms. Harris, you are going to get into
10 service on this issue, since the respondent is
11 not present; is that correct?

12 MS. HARRIS: Yes, I will.

13 HEARING OFFICER: All right. Who are your
14 witnesses going to be?

15 MS. HARRIS: I believe it's Ms. Kersey.

16 HEARING OFFICER: All right.

17 (WHEREUPON, the witness was sworn by the
18 Hearing Officer.)

19 HEARING OFFICER: Thank you. Ms. Harris,
20 are you going to make an opening statement on
21 this or just call your first witness?

22 MS. HARRIS: Just call Ms. Kersey.

23 HEARING OFFICER: All right. Please
24 proceed.

25 WHEREUPON,

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 KELLI KERSEY,
2 having been called for examination, and having been first
3 duly sworn by the Hearing Officer, was examined and
4 testified, as follows:

5 DIRECT EXAMINATION

6 BY MS. HARRIS:

7 Q Ms. Kersey, please, identify yourself for the
8 record.

9 A Kelli Kersey, Arkansas Department of Health,
10 Cosmetology Section, Section Chief.

11 Q Okay. And what is your role -- in your role as
12 Section Chief, do you review inspections, violations,
13 Orders and Notices of Hearing?

14 A Yes.

15 Q Okay. Was an Order and Notice of Hearing sent to
16 One Source Styling Salon?

17 A Yes, it was.

18 Q What address was it sent to?

19 A It was sent to 8402 Hills Road, North Little Rock.

20 Q Okay. And it was addressed to Ms. Carol Miller?

21 A Yes.

22 Q Who is Ms. Miller?

23 A I believe she is the owner. Yeah. I think she's
24 the owner.

25 Q Okay. What day was it sent?

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

- 1 A July 8th.
- 2 Q Okay. And did it ever arrive there?
- 3 A It looks like that it did arrive. I'm not sure she
4 ever went and picked it up, signed for it. Looks like it
5 arrived on July 9th.
- 6 Q Okay. And if I look at Page 4, it says resent
7 certified and registered mail?
- 8 A Uh-huh.
- 9 Q Resent? Did we send it before?
- 10 A We had sent it before to the salon address, which is
11 515 South James.
- 12 Q Okay. And that's the salon address?
- 13 A Correct.
- 14 Q So what is this other address?
- 15 A It's Carol Miller's home address.
- 16 Q Okay. And what about the one that went to the salon
17 address?
- 18 A It says "moved and left no address."
- 19 Q Okay.
- 20 A "Undeliverable."
- 21 Q Have you gotten a new address for One Source Styling
22 Salon?
- 23 A No.
- 24 Q So this is the last address you have on file, 515
25 South James, Jacksonville, Arkansas?

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

- 1 A Correct.
- 2 Q All right. And then did you send a violation notice
3 to One Source Styling Salon?
- 4 A We did.
- 5 Q Okay. And that was sent also to the Jacksonville
6 address?
- 7 A Yes.
- 8 Q Did you ever hear back from One Source about the
9 violation notice?
- 10 A I did not personally.
- 11 Q Okay. Okay. That's all I have about service and
12 the address.
- 13 Okay. Then, Ms. Kersey, please tell me, what day
14 did we do an inspection on this salon?
- 15 A It was December 23, 2015.
- 16 Q Who did the inspection?
- 17 A Stacia Wallace.
- 18 Q And who is Ms. Wallace?
- 19 A She is a former inspector.
- 20 Q And what violations did she note that day?
- 21 A She noted that the salon was unlicensed and that all
22 posted license were not current.
- 23 Q And did you say Ms. Wallace no longer works for ADH?
- 24 A Correct.
- 25 Q Okay. But these are licensing violations. Are you

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 able to confirm them in the computer system?

2 A Yes.

3 Q Did you do that?

4 A I did, yes.

5 Q And what did the computer system show?

6 A Actually, One Source was a salon at one time, and we
7 have a permanent -- they closed permanent on 8/27/2013.
8 And but, apparently, on December 23, 2015, when Stacia
9 went by there, they were open.

10 Q They actually submitted paperwork to you closing the
11 salon in 2013?

12 A Yes.

13 Q Okay. Which means they do not have a current salon
14 license?

15 A Correct.

16 Q All right. And have you gotten any information from
17 them on them reopening the salon? Sorry.

18 A No. I have not.

19 Q Okay. And the last address we have on file in this,
20 is that from the inspection sheet or from our previous
21 salon?

22 A From the -- oh, it's both. The same.

23 Q It's the same?

24 A The old -- in the old system that was closed, it's
25 the same address as this address.

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 Q Okay. So they didn't even move locations?

2 A Correct.

3 Q Okay. What is your recommendation today?

4 A \$500.

5 Q And that is for?

6 A For an unlicensed salon.

7 MS. HARRIS: Okay. I have no other
8 questions.

9 HEARING OFFICER: Committee members, any
10 questions for Ms. Kersey?

11 MS. BOYDSTUN: I do have one. Is it the
12 same owner that formerly closed it?

13 THE WITNESS: I can look.

14 Well, there is no owner in the old record.

15 MS. BOYDSTUN: Okay.

16 THE WITNESS: So I can't say yes or no.

17 MS. BOYDSTUN: Okay.

18 HEARING OFFICER: Anyone else?

19 MS. JONES: And they are currently open
20 now? She's currently open now?

21 THE WITNESS: Well, we got the letter back
22 that says that they have moved and didn't have
23 a forwarding address, so -- I mean we haven't
24 been back since December.

25 MS. JONES: Okay.

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 HEARING OFFICER: Any other questions?

2 Ms. Harris, do you want to make a
3 summation?

4 MS. HARRIS: I do not.

5 HEARING OFFICER: All right. If there are
6 no further questions, I think the committee is
7 probably ready to deliberate -- you don't have
8 any other witnesses, do you?

9 MS. HARRIS: (Shaking head from side to
10 side.)

11 HEARING OFFICER: Okay. The committee at
12 this juncture is ready to deliberate. We'll go
13 ahead and go off the record and once the
14 committee reaches a decision, we'll come back
15 on the record with motion and vote.

16 We will go off the record.

17 (WHEREUPON, the CTAC retired to
18 deliberate, off the record, from 11:51 a.m. to
19 11:53 a.m., and returned with the following
20 decision:)

21 HEARING OFFICER: We're back on the
22 record.

23 The committee has reached a decision in
24 this matter.

25 I'm going to turn it over to the chairman

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 for motion and votes. Madam Chair.

2 MS. JACKSON: All right. Tonya, are you
3 going to make a motion on the allegation of
4 fact?

5 MS. BOYDSTUN: Yes, I am. I make a motion
6 that the allegation of facts stand as we heard
7 this morning, working without a license.

8 MS. JACKSON: Okay. Infinity Health and
9 Spa. Is there a second?

10 MS. KERSEY: One Source.

11 MS. JACKSON: One Source. Sorry. I'm
12 reading from the last -- I'm reading my notes.

13 One Source Styling Salon. Do we have a
14 second?

15 MS. ANDERSON: I second that.

16 MS. JACKSON: All in favor?

17 COMMITTEE MEMBERS: Aye.

18 MS. JACKSON: All right. Do we have a
19 motion on the findings?

20 MS. BOYDSTUN: I make a motion on the
21 findings that it is a salon without a license
22 and the fine should be \$500.

23 MS. ANDERSON: Second that.

24 MS. JACKSON: All in favor?

25 COMMITTEE MEMBERS: Aye.

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 MS. JACKSON: Okay. Let the record show
2 that the motion of fact as well as the findings
3 both passed unanimously.

4 HEARING OFFICER: All right. Thank you
5 very much. I will ask staff to reduce the
6 decision of the committee to writing, make
7 certain the respondent gets a copy of it, if at
8 all possible, with a cover letter notifying the
9 respondent of its appeal rights.

10 If there are no other questions or
11 comments I will call this hearing to a close.

12 We're off the record.

13 (WHEREUPON, at 11:54 a.m., the
14 above-entitled proceedings were concluded.)

15 ---o---

16

17

18

19

20

21

22

23

24

25

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 A discussion was held regarding the
2 education hours conversion table. Motion was
3 made by Ms. Anderson to accept the conversion
4 table credit hours presented for massage
5 therapy/aesthetics, manicuring to aesthetics,
6 massage therapy to cosmetology and aesthetics;
7 second by Ms. Boydston, passed unanimously.

8 A committee consisting of Carla Jones,
9 Tonya Boydston, and Brian Keary was formed to
10 create a conversion table of hours for a
11 licensed cosmetologist to become a licensed
12 aesthetician or licensed nail technician. They
13 will meet on August 8, 2016, at 9:00 a.m., at
14 the Freeway Medical Building, 5800 West 10th
15 Street, Room 801, Little Rock, Arkansas.

16 Reciprocity and comparable state testing
17 was discussed.

18 Kelli Kersey gave an update about
19 electronic inspections; on the final, final
20 testing, should be ready soon.

21 Kathryn Kersey is no longer with the
22 section, send the school information to Cosmo
23 now. They will get that position filled.

24 The meeting was adjourned at 12:22 p.m.

25

---o---

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

STATE OF ARKANSAS)

COUNTY OF PULASKI)

I, SUSAN B. WHITSON, Certified Court Reporter and notary public in and for Pulaski County, State of Arkansas, do hereby certify that the hearings and the meeting held before the Arkansas Department of Health, Cosmetology Technical Advisory Committee, July 18, 2016, was taken by me in Stenotype and was reduced to computer-generated typewritten form by me or under my direction and supervision; that the witnesses were duly sworn by the Hearing Officer; and that the same is a true and correct reflection of the proceedings that occurred, to the best of my knowledge and ability.

I FURTHER CERTIFY that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were taken; and, further that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested, or otherwise, in the outcome of this action; and that I have no contract with the parties, attorneys, or persons with an interest in the action that affects or has a substantial tendency to

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE, 7/27/16

1 affect impartiality, that requires me to relinquish
 2 control of an original transcript or copies of the
 3 transcript before it is certified and delivered to the
 4 custodial attorney, or that requires me to provide any
 5 service not made available to all parties to the action.

6 SIGNED AND SWORN this _____ day of
 7 _____.

8
 9
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

 SUSAN B. WHITSON, CCR, #158
 NOTARY COMMISSION #12388076
 NOTARY PUBLIC IN AND FOR
 PULASKI COUNTY, ARKANSAS

My Commission Expires: June 4, 2022.

---o---