

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST :
 : FINAL DECISION AND ORDER
SHAUNA M. SCHLEIHS, : LS0806028BAC
RESPONDENT. :
 :

Division of Enforcement Case File Numbers: 04 BAC 024 and 06 BAC 063

The parties to this action for the purposes of Section 227.53 of the Wisconsin statutes are:

Shauna M. Schleihs
1517 South Outagamie Street
Appleton, Wisconsin 54914

Barbering and Cosmetology Examining Board
Post Office Box 8935
Madison, Wisconsin 53708-8935

Department of Regulation and Licensing
Division of Enforcement
Post Office Box 8935
Madison, Wisconsin 53708-8935

PROCEDURAL HISTORY

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Barbering and Cosmetology Examining Board (Board). The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Salon Moxie, L.L.C., was duly licensed as a barbering and cosmetology establishment in Wisconsin (license #80-33327). That license was first granted on August 19, 2005, and was placed in non-working status on February 16, 2006. The last address reported to the Department of Regulation and Licensing (hereinafter Department) for Salon Moxie, L.L.C., was 103 West College Avenue, Suite 100, Appleton, Wisconsin 54911.

2. Shauna Schleihs is duly licensed as barbering or cosmetology manager in Wisconsin (license number 81-28482). That license was first granted on October 9, 2000, and is current until March 31, 2009. The last address Ms. Schleihs reported to the Department is 1517 South Outagamie Street, Appleton, Wisconsin 54914.

3. Shauna Schleihs was listed in Departmental records as the owner and manager of Salon Moxie, L.L.C., from August 19, 2005, through February 16, 2006. Effective on February 16, 2006 there was a change of ownership and Shauna Schleihs was no longer listed as the owner of the establishment. As the owner and manager of a licensed barbering and cosmetology establishment, Ms. Schleihs is responsible for compliance with Wis. Stat. Ch. 454 and Wisconsin Administrative Code Chs. BC 2, 3 and 4.

04 BAC 024

4. On August 10, 2005, Departmental Investigator Michelle Krisher inspected Salon Moxie. Ms. Schleihs informed Investigator Krisher that she was the owner and manager of the establishment.

5. At the time of the August 10, 2005, inspection Salon Moxie did not have a current barbering and cosmetology establishment license.

6. Shauna Schleihs was engaged in the practice of barbering or cosmetology at Salon Moxie at the time of the inspection and on previous occasions when the salon was unlicensed.

7. A barbering and cosmetology establishment license existed for Salon Moxie prior to the time of the inspection. The owner and manager of the establishment listed in Departmental records was Eric Johnson. That license was granted on September 8, 2003, and expired on July 1, 2005.

8. It is unknown when ownership of the establishment changed from Mr. Johnson to Ms. Schleihs.

9. Wis. Stat. §454.08 (1) (b) Establishment licenses provides:

(b) Except as permitted by rule promulgated under par. (a), no person may practice barbering or cosmetology, aesthetics, electrolysis or manicuring in an establishment unless the establishment is licensed to provide that practice under sub. (2).

10. Wis. Admin. Code § BC 3.04 (1) Establishment applications provides:

(1) Before a person may open a new establishment, or change the ownership of an existing establishment, or relocate and create a new establishment as specified in s. BC 3.06(2), the person shall submit an application to the board on a form specified by the board.

11. Wisconsin Administrative Code § BC 3.06 (2) Change of ownership or location provides:

(2) Change of location of any establishment constitutes the creation of a new establishment and requires submission of an application for a new establishment license. Relocation of a leased chair or booth which is licensed as an establishment and housed within a lessor establishment requires only written notification to the department identifying the change of chair or booth.

12. Following the August 10, 2005, inspection, a barbering and cosmetology establishment license (license #80-33327) was granted to Salon Moxie, L.L.C., by the Department on August 19, 2005.

06 BAC 063

13. On November 25, 2005, Ms. Schleihs relaxed a customer's hair. Later that night, the customer's hair began falling out and her scalp itched.

14. A doctor who examined the customer diagnosed a chemical burn to the scalp.

15. Ms. Schleihs did not perform any patch test prior to application of the relaxer, even when informed by the client that the client had hair breakage with a chemical procedure nine months previous to the event in question, nor did Ms. Schleihs perform a patch test when the package that the relaxer came in stated that the product can cause an allergic reaction.

16. Wis. Stat. §§ 454.15 (2) (c) and (i) Disciplinary proceedings and actions provide:

(2) Subject to the rules promulgated under s. 440.03 (1) and this chapter, the examining board may revoke, limit, suspend or refuse to issue or renew, in accordance with the severity of the violation, a license or permit issued under this chapter or reprimand the holder of a license or permit issued under this chapter if it finds that the holder or applicant has done any of the following:

(c) Engaged in conduct in the practice of barbering or cosmetology, aesthetics, electrology or manicuring which evidences a lack of knowledge or ability to apply professional principles or skills.

(i) Violated this chapter or any rule promulgated under this chapter.

17. Wis. Admin. Code § BC 2.03 (1) Practice standards provides:

(1) Services provided by any licensee shall be performed in a manner that is consistent with basic and accepted practice standards and in accordance with all state statutes, board rules and local codes and ordinances.

18. In resolution of this matter, Shauna Schleih's consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Barbering and Cosmetology Examining Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 454.15.

2. The Wisconsin Barbering and Cosmetology Examining Board is authorized to enter into the attached stipulation pursuant to Wis. Stat. § 227.44(5).

3. By operating an unlicensed barbering or cosmetology establishment and practicing in that establishment as set forth in paragraphs 4-6 of the Findings of Facts Shauna Schleih's has violated:

- a. Wis. Stat. § 454.08 (1)(b)
- b. Wis. Stat. § 454.15 (2)(i)
- c. Wis. Admin. Code § BC 3.04(1)
- d. Wis. Admin. Code § BC 3.06(2)

4. By her failure to conduct a patch test prior to administering a hair relaxant to a customer as set forth in paragraphs 13 and 15 of the Findings of Fact Shauna Schleih's has violated:

- a. Wis. Stat. § 454.15 (2)(c)
- b. Wis. Stat. § 454.15 (2)(i)
- c. Wis. Admin. Code § BC 2.03 (1)

ORDER

NOW, THEREFORE, **IT IS HEREBY ORDERED** that the barbering or cosmetology manager license of Shauna Schleih's (#81-28482) is hereby REPRIMANDED.

NOW, THEREFORE, **IT IS HEREBY ORDERED** that Shauna Schleih's shall pay to the Department of Regulation and Licensing a forfeiture of ONE THOUSAND AND ONE HUNDRED dollars (\$1,100.).

IT IS FURTHER ORDERED that Shauna Schleih's shall pay full costs in the amount of TWO THOUSAND AND ONE HUNDRED dollars (\$2,100.) in this matter.

Payment of the forfeiture and cost total of THREE THOUSAND AND TWO HUNDRED dollars (\$3,200) shall be made over a period of two years from the date of the board order. The payments will be made every three months in the amount of FOUR HUNDRED dollars (\$400). The first payment shall be due 30 days after the board order.

Payment shall be by *certified check or money order*, payable to the Wisconsin Department of Regulation and Licensing and sent to:

Department Monitor
Division of Enforcement
Post Office Box 8935
Madison, Wisconsin 53708-8935
608-261-7904

IT IS FURTHER ORDERED that in the event Shauna Schleihs fails to timely submit any payment of the forfeiture and costs as set forth above, the barbering or cosmetology manager license of Shauna Schleihs (license number 81-28482) **SHALL BE SUSPENDED**, without further notice or hearing, until Shauna Schleihs has complied with the terms of this Order.

This Order shall become effective upon the date of its signing.

BARBERING AND COSMETOLOGY EXAMINING BOARD

By: Jeannie M. Bush
A member of the Board

6/2/08
Date

STATE OF WISCONSIN
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

SHAUNA M. SCHLEIHS,
RESPONDENT.

STIPULATION
LS #08 _____ BAC

Division of Enforcement Case File Numbers: 04 BAC 024 and 06 BAC 063

It is hereby stipulated between Shauna M. Schleihs and John C. Temby, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of pending investigations by the Division of Enforcement (04 BAC 0240 and 06 BAC 063). Ms. Schleihs consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.
2. Ms. Schleihs understands that by the signing of this Stipulation she voluntarily and knowingly waive her rights, including: the right to a hearing on the allegations against her, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against her; the right to call witnesses on her behalf and to compel their attendance by subpoena; the right to testify herself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to her under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes and the Wisconsin Administrative Code.
3. Ms. Schleihs has been provided an opportunity to obtain legal counsel prior to signing this stipulation.
4. Ms. Schleihs agrees to the adoption of the attached Final Decision and Order by the Barbering and Cosmetology Examining Board (hereafter "Board"). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Ms. Schleihs waives all rights to any appeal of the attached order, if adopted in the form as attached.
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Barbering and Cosmetology Examining Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of the Ms. Schleihs or her attorney if she has one, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with the Board's deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.
7. Ms. Schleihs are informed that should the Board adopt this stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department policy.
8. The Division of Enforcement joins Shauna M. Schleihs in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

Shauna M. Schleih

Respondent

1517 South Outagamie Street

Appleton, Wisconsin 54914

License Number: 81-28482

Date

John C. Temby

Attorney

Division of Enforcement

Wisconsin Department of Regulation and Licensing

Post Office Box 8935

Madison, Wisconsin 53708-8935

Date