

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
:
THE SALON AND JENNY R. WELLS-ERIE, : LS 0908054 BAC
RESPONDENTS. :

Division of Enforcement Case File # 08 BAC 261

The parties to this action for the purpose of Wis. Stats. § 227.53 are:

The Salon
333 East State Street
Mauston, WI 53948

Jenny R. Wells-Erie
409 Grant Street
Mauston, WI 53948

Barbering and Cosmetology Examining Board
P.O. Box 8935
Madison, WI 53707-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Wisconsin Barbering and Cosmetology Examining Board (Board). A formal complaint has also been issued in this matter prior to a Stipulation being entered into by Respondent and Division of Enforcement for the Department of Regulation and Licensing. 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. The Salon is duly licensed as a barbering and cosmetology establishment in the State of Wisconsin having license # 80-32281. This license was granted on 08/26/2004 and is current through 03/31/2011.

2. The Salon's most recent address on file with the Department of Regulation and Licensing (Department) is 333 East State Street, Mauston, Wisconsin 53948.

3. Jenny R. Wells-Erie, whose date of birth is 05/09/1973, is listed as the owner and the manager of record for The Salon. Department records indicate that Ms. Wells-Erie holds a barbering and cosmetology manager's license, # 81-27701. This license was first granted on 12/14/1998 and is current through 03/31/2011.

4. Ms. Wells-Erie's most recent address on file with the Department is 409 Grant Street, Mauston, Wisconsin 53948.

5. As owner and manager of record, Ms. Wells-Erie was and is at all times relevant to this action responsible for compliance with Wisconsin Statutes, Chapter 454 and the Wisconsin Administrative Code for Barbering and Cosmetology Chapter 4.

6. On or about November 7, 2008, the Department received a consumer complaint. The complaint was subsequently opened for investigation.

7. On February 19, 2009, a Department consumer protection investigator conducted an inspection of The Salon. The inspection revealed the following violations:

- The establishment license wasn't posted;
- Hair clippings were found in workstation areas where "clean" implements were stored;
- Topical antiseptic was not kept at all workstations; and
- A wax container was not covered.

8. The Respondents have taken proactive steps to correct violations found during the February 19, 2009 inspection of The Salon.

9. The Respondents agree to reimburse the Department for the costs of the inspection.

10. The Respondents have cooperated with the Department during the course of this matter.

11. In resolution of this matter, the Respondents consent to the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Barbering and Cosmetology Examining Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 454.15.
2. The Barbering and Cosmetology Examining Board is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).
3. Respondents, Jenny R. Wells-Erie and The Salon have violated:
 - a. Wis. Stat. § 454.08(8) by failing to have the establishment license posted in a conspicuous place;
 - b. Wis. Admin. Code § BC 4.01(1) by failing to maintain the establishment in a clean, sanitary and safe condition;
 - c. Wis. Admin. Code § BC 4.01(4) by failing to insure all liquids, creams, powders, and semi-solid substances were dispensed from containers in a manner which would prevent contamination of the unused portion of the substance; and
 - d. Wis. Admin. Code § BC 4.04(1) by failing to insure all workstations were supplied with at least one of the antiseptics listed in s. BC 4.05 for use by licensees in case of an injury.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Jenny R. Wells-Erie and The Salon are hereby REPRIMANDED.

IT IS FURTHER ORDERED that:

2. Respondents shall jointly and severally pay COSTS, as agreed upon in Paragraph nine (9) of the Findings of Fact, in the amount of THREE HUNDRED NINETY DOLLARS (\$390.00) within 90 days of the date of this Order.
3. Payment shall be made by **certified check or money order**, payable to the Wisconsin Department of Regulation and Licensing and sent to:

Department Monitor
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 267-3817, Fax (608) 266-2264

4. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondents' licenses. The Board in its discretion may, in the alternative, impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondents fail to timely submit any payment as ordered, then the Respondents' licenses SHALL BE SUSPENDED without further notice or hearing until Respondents have complied with the terms of this Order.

5. This Order is effective on the date of its signing.

IT IS FURTHER ORDERED that file 08 BAC 261 is hereby closed as to all Respondents.

Dated this 1st day of Feb, 2010.

WISCONSIN BARBERING AND COSMETOLOGY EXAMINING BOARD

By: Jessie M. Burr