

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF A PETITION FOR

AN ADMINISTRATIVE INJUNCTION

FINAL DECISION

YEN PHAN,

AND ORDER

RESPONDENT.

LS9901044RAL

The State of Wisconsin, Department of Regulation and Licensing, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Department of Regulation and Licensing.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 18th day of February, 1999.

Marlene A. Cummings, Secretary

STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

-
:
IN THE MATTER OF A PETITION

FOR AN ADMINISTRATIVE INJUNCTION

PROPOSED DECISION

INVOLVING

AND ORDER

YEN PHAN,

Case No. LS-9901044-RAL

RESPONDENT

-
PARTIES

The parties to this action under section 227.44 of the Wisconsin Statutes and chapter RL 3 of the Wisconsin Administrative Code, and for purposes of review under §227.53, Wis. Stats., are:

Complainant:

*Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Avenue
Madison, WI 53703*

Respondent:

*Yen Phan
197 W. Bolivar Avenue
Milwaukee, WI 53207*

*also c/o Pro Nail Salon
275 W. Wisconsin Avenue, Suite 5
Milwaukee, WI 53203*

PROCEDURAL HISTORY

On January 4, 1999, the Division of Enforcement, by its attorney Steven M. Gloe, filed a petition for an administrative injunction. A hearing on the petition was scheduled for January 27, 1999. A copy of the petition and a notice of hearing were sent to Ms. Phan on January 4, 1999, by first-class mail to her last known address.

Ms. Phan failed to file an answer to the petition. The hearing on the petition was held as scheduled. Ms. Phan did not appear. Mr. Gloe appeared on behalf of the Department of Regulation and Licensing.

Based on the entire record of this case, this is the proposed decision and order of the undersigned administrative law judge.

FINDINGS OF FACT

1. Yen Phan does not hold a license to practice as a manicurist in the State of Wisconsin.
2. On November 12, 1998, Ms. Phan was engaged in the practice of manicuring at Pro Nail Salon, a manicuring establishment located at 275 W. Wisconsin Avenue, Suite 5, Milwaukee, Wisconsin.
3. On January 4, 1999, the Department of Regulation and Licensing (Department) sent a Petition For Injunction by first-class and registered mail to Yen Phan at her last known address. Ms. Phan did not file an answer to the Petition.

CONCLUSIONS OF LAW

1. Yen Phan engaged in the practice of manicuring in Wisconsin without the required credential contrary to §454.04 (1) (d), Wis. Stats.

ORDER

THE DEPARTMENT OF REGULATION AND LICENSING HEREBY ISSUES THE FOLLOWING SPECIAL ORDER:

Effective on the date on which this order is signed by the Department Secretary or her designee,

- the respondent, Yen Phan, is **enjoined and prohibited** from engaging, directly or indirectly, in manicuring, which is conduct requiring a credential under Chapter 454, Wis. Stats., unless and until she obtains the appropriate credential under Chapter 454, Wis. Stats.

**ANY VIOLATION OF THIS SPECIAL ORDER MAY RESULT IN A
FORFEITURE OF UP TO \$10,000 FOR EACH OFFENSE, WITH EACH
DAY OF CONTINUED VIOLATION CONSTITUTING A SEPARATE
OFFENSE.**

OPINION

On November 12, 1998, Ms. Phan was employed at Pro Nail Salon in Milwaukee, Wisconsin, to provide manicuring services to the public. She was observed on that same date manicuring a customer's nails at the Pro Nail Salon. Ms. Phan was not licensed as a manicurist at the time she was observed, nor is she presently licensed as a manicurist.

The Department subsequently served a Petition For Injunction on Ms. Phan both by first-class and registered mail on January 4, 1999. Ms. Phan failed to appear at her scheduled hearing and did not file an answer with the Department. She is therefore in default and has effectively admitted all the allegations contained in the Petition.

It is undisputed that Ms. Phan engaged in the practice of manicuring without the professional credential required by statute. Section 440.21, Wis. Stats., authorizes the Department to seek a special order enjoining anyone from practicing without a professional credential. Such an order is clearly appropriate here.

Any person who violates a special order issued under section 440.21(2), Stats., may be required to forfeit up to \$10,000 for each offense, under section 440.21(4), Stats., and each day of continued violation constitutes a separate offense.

Dated at Madison, Wisconsin, this 4th day of February, 1999.

STATE OF WISCONSIN

DEPARTMENT OF REGULATION & LICENSING

1400 East Washington Avenue

Madison, Wisconsin 53703

Jacquelynn B. Rothstein

Administrative Law Judge