

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 AND ORDER

INVOLVING

LS9901132RAL

PHUONG THI NGUYEN,

RESPONDENT.

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 11th day of March, 1999.

Marlene A. Cummings, Secretary

STATE OF WISCONSIN

BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

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IN THE MATTER OF A PETITION

FOR AN ADMINISTRATIVE
INJUNCTION INVOLVING

PROPOSED DECISION AND ORDER

Case No. LS-9901132-RAL

PHUONG THI NGUYEN

RESPONDENT

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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: Phuong Thi Nguyen

2417 Pebble Valley Road, #37
Waukesha, WI 53188

also c/o Star Nails
161 Bank Street
Waukesha, WI 53188

PROCEDURAL HISTORY

On January 13, 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 February 23, 1999. A copy of the petition and a notice of hearing were sent to Ms. Nguyen on January 13, 1999, by first-class and certified mail to her last known address.

The hearing on the petition was held as scheduled. Mr. Gloe appeared on behalf of the Department of Regulation and Licensing. Ms. Nguyen filed an answer to the petition, but did not appear.

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. Phuong Thi Nguyen does not hold a license to practice as a manicurist in the State of Wisconsin.
2. On February 4, 1998, Ms. Nguyen was engaged in the practice of manicuring at Star Nails, a manicuring establishment located at 161 Banks Street, Waukesha, Wisconsin.
3. On January 13, 1999, the Department of Regulation and Licensing (Department) sent a Petition For Injunction by first-class and registered mail to Phuong Thi Nguyen at her last known address. Ms. Nguyen filed an answer to the Petition.

CONCLUSIONS OF LAW

1. Phuong Thi Nguyen 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, Phuong Thi Nguyen, 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 he obtains the appropriate credential under Chapter 454, Wis. Stats.; and

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 February 4, 1998, Ms. Nguyen was employed at Star Nails in Waukesha, Wisconsin, to provide manicuring services to the public. She was observed on that same date manicuring a customer's nails at Star Nails. Ms. Nguyen was not licensed in Wisconsin as a manicurist at the time she was observed, nor is she presently licensed.

The Department subsequently served a Petition For Injunction on Ms. Nguyen both by first-class and registered mail on January 13, 1999. Ms. Nguyen failed to appear at her scheduled hearing, though she did file an answer with the Department.

It is undisputed that Ms. Nguyen 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 24th day of February, 1999.

STATE OF WISCONSIN

DEPARTMENT OF REGULATION & LICENSING

1400 East Washington Avenue

Madison, Wisconsin 53703

Jacquelynn B. Rothstein

Administrative Law Judge

