

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 INVOLVING:

KEN NGUYEN,

RESPONDENT

FINAL DECISION AND ORDER

LS0007141RAL

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 2nd day of November, 2000.

Marlene A. Cummings, Secretary
Department of Regulation and Licensing

BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

**IN THE MATTER OF A PETITION FOR AN
ADMINISTRATIVE INJUNCTION INVOLVING**

**KEN NGUYEN,
RESPONDENT**

PROPOSED DECISION
LS0007141RAL

The parties to this proceeding for the purposes of Wisconsin Statutes, sec. 227.53 are:

Ken Nguyen

194 Sullivan Street

Oshkosh, Wisconsin 54902

Department of Regulation & Licensing

P.O. Box 8935

Madison, Wisconsin 53708

Division of Enforcement

Department of Regulation & Licensing

P.O. Box 8935

Madison, Wisconsin 53708

This proceeding was commenced by the filing of a Notice of Hearing and Petition for Injunction on July 14, 2000. A hearing was held in the above-captioned matter on August 8, 2000. Attorney Steven M. Gloe appeared on behalf of the Division of Enforcement, Department of Regulation and Licensing. The respondent, Ken Nguyen, did not appear at the hearing.

Based upon the record herein, the Administrative Law Judge recommends that the Department of Regulation and Licensing adopt as its final decision in this matter the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. At least on December 14, 1999, the respondent, Ken Nguyen, engaged in manicuring at Nails Only, an establishment located at 194 Sullivan Street, Oshkosh, Wisconsin.
2. Respondent has not been granted a credential to engage in the practice of manicuring, as required under s. 454.04 (1)(d), Stats.
3. A copy of the Notice of Hearing and the Petition for Injunction was mailed to the respondent, by certified mail, on July 14, 2000. Respondent did not file an Answer to the Petition for Injunction and did not appear at the hearing held in this matter.

CONCLUSIONS OF LAW

1. The Department of Regulation and Licensing has jurisdiction in this matter pursuant to s. 440.21, Wis. Stats.
2. By engaging in the practice of manicuring without the appropriate credential, as required under ch. 454, Stats., respondent violated s. 454.04 (1)(d), Stats.
3. The respondent, Ken Nguyen, is in default under s. RL 3.13 Wis. Adm. Code.

ORDER

NOW THEREFORE, IT IS ORDERED that Ken Nguyen be and hereby is enjoined from engaging in the practice of manicuring unless and until he has been granted an appropriate credential, as required under s. 454.04 (1) (d), Stats.

This order is effective as of the date it is signed by the Department's designee.

OPINION

The evidence presented establishes that, at least on December 14, 1999, Mr. Nguyen practiced as a manicurist at Nails Only, an establishment located at 194 Sullivan Street, Oshkosh, Wisconsin. Mr. Nguyen has not been granted a credential to practice as a manicurist, as required under ch. 454, Stats.

The Department of Regulation and Licensing is authorized under sec. 440.21 (2), Stats., to issue administrative injunctions. That provision states that if, after holding a public hearing, the department determines that a person has engaged in a practice or used a title without a credential required under chs. 440 to 480, the department may issue a special order enjoining the person from the continuation of the practice or use of the title. The issuance of an administrative injunction is clearly appropriate in this case.

The purpose of licensing statutes is not to benefit those persons licensed to practice under the statute, but rather to protect the public by the requirement of a license as a condition precedent to practicing in a given profession. Such statutes are grounded in the state's police power to protect the public welfare through safeguarding the life, health, and property of its citizens. Gilbert v. Medical Examining Board, 119 Wis. 2d 168, 188, 349 N.W. 2d 68 (1984).

Based upon the record herein, the Administrative Law Judge recommends that the Department of Regulation and Licensing adopt as its final decision in this matter, the proposed Findings of Fact, Conclusions of Law and Order as set forth herein.

Dated at Madison, Wisconsin this 27th day of September 2000.

Respectfully submitted,

Ruby Jefferson-Moore

Administrative Law Judge