

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

HUGN MINH DUONG,	FINAL DECISION AND ORDER
RESPONDENT.:	LS9910291RAL

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 6th day of January, 2000.

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

HUGN MINH DUONG,	PROPOSED DECISION AND ORDER
RESPONDENT	Case No. LS-9910291RAL

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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:
Huhn Minh Duong
1600 Dancing Dunes Drive
Green Bay, WI 54304

also c/o LA Nails
811 Green Bay Plaza
Green Bay, WI 54304

PROCEDURAL HISTORY

On October 29, 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 December 7, 1999. A copy of the petition and a notice of hearing were sent to Mr. Duong on November 3, 1999, by first-class and certified mail to his last known address.

Mr. Duong failed to file an answer to the petition. The hearing on the petition was held as scheduled. Mr. Duong 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. Hugn Minh Duong does not hold a license to practice as a manicurist in the State of Wisconsin.
2. On September 30, 1999, Mr. Duong was engaged in the practice of manicuring at LA Nails, a manicuring establishment located at 811 Green Bay Plaza in Green Bay, Wisconsin.
3. On November 3, 1999, the Department of Regulation and Licensing (Department) sent a Petition For Injunction by first-class and registered mail to Hugn Minh Duong at his last known address. Mr. Duong did not file an answer to the Petition.

CONCLUSIONS OF LAW

1. Hugn Minh Duong 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, Hugn Minh Duong, 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 September 30, 1999, Mr. Duong was employed at LA Nails in Green Bay, Wisconsin, to provide manicuring services to the public. He was observed on that same date manicuring a customer's nails at LA Nails. Mr. Duong was not licensed as a manicurist at the time he was observed, nor is he presently licensed as a manicurist.

The Department subsequently served a Petition For Injunction on Mr. Duong both by first-class and registered mail on November 3, 1999. Mr. Duong failed to appear at his scheduled hearing and did not file an answer with the Department. He is therefore in default and has effectively admitted all the allegations contained in the Petition.

It is undisputed that Mr. Duong 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 7th day of December, 1999.

STATE OF WISCONSIN

DEPARTMENT OF REGULATION & LICENSING

1400 East Washington Avenue

Madison, Wisconsin 53703

Jacquelynn B. Rothstein

Administrative Law Judge