

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:

HUONG LY THI VO TRAN,
RESPONDENT

FINAL DECISION AND ORDER
LS0102055UNL

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 16th day of April, 2001.

Oscar Herrera, Secretary
Department of Regulation and Licensing

STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

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

HUONG LY THI VO TRAN
RESPONDENT

PROPOSED DECISION AND ORDER
LS0102055UNL

Based on the authority in section 440.21(2) of the Wisconsin Statutes and chapter RL 3 of the Wisconsin Administrative Code, and the Findings of Fact and Conclusions of Law below,

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

Effective on the date on which this order is signed by the departmental secretary or designee,

- the respondent, Huong Ly Thi Vo Tran, is **enjoined and prohibited** from continuing to engage, directly or indirectly, in manicuring, which is conduct which requires a credential under chapter 454, Stats., unless and until the appropriate credential is obtained under chapter 454, 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.

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 sec. 227.53, Stats., are:

Complainant:

Division of Enforcement

Department of Regulation and Licensing

1400 East Washington Ave.

Madison, WI 53703

Respondent:

Huong Ly Thi Vo Tran

2330 9th Street

Rockford, IL 61104

PROCEDURAL HISTORY

- A. On February 5, 2001, the complainant, the Division of Enforcement in the Department of Regulation and Licensing, filed a petition for an administrative injunction. A hearing on the petition was scheduled for March 15, 2001. On February 4, 2001, a copy of the petition and a notice of hearing were served on the respondent by first-class mail and certified mail, return receipt requested to the respondent's last known address.
- B. The notice of hearing informed respondent that she was to file a written answer to the petition within 10 days after service. Respondent did not file an answer to the petition within the specified time limit.
- C. The hearing was held as scheduled. The respondent did not appear. The department was represented by Attorney Steven Gloe of the Department's Division of Enforcement.

FINDINGS OF FACT

1. The petition in this action was served upon the respondent, by mailing to her last-known address under section RL 3.07, Wis. Admin. Code. The respondent failed to comply with the requirement to file an answer and failed to appear at the hearing.
2. The respondent, does not hold a license to practice as a manicurist in the State of Wisconsin.
3. On or about November 21, 2000, respondent was providing manicuring services to the public at Cheri Nails, an establishment located at 1810 Silvernail Road, Pewaukee, Wisconsin.

CONCLUSIONS OF LAW

1. Under section 440.21, Stats., and chapter RL 3, Wis. Admin. Code, the Department of Regulation and Licensing is the legal authority responsible for enforcing laws requiring credentials issued under chapters 440 to 459, Stats. The department has jurisdiction over the subject-matter of a petition alleging that a person engaged in a practice without a credential required under chapters 440 through 459.

2. The respondent was served by mail at respondent's last-known address in Wisconsin under section RL 3.13, Wis. Admin Code. The Department of Regulation and Licensing has personal jurisdiction over the respondent under section 801.04(2), Stats., and section RL 3.07, Wis. Admin. Code.
3. The respondent is in default under section RL 3.13, Wis. Admin. Code. The department may make findings of fact and enter an order on the basis of the petition and the evidence presented at the hearing.
4. The respondent has engaged in the practice of manicuring in Wisconsin without the required credential contrary to s. 454.04(1)(d), Stats.

OPINION

This case is an action for an administrative injunction against respondent under the authority of s. 440.21, Stats., and ch. RL 3, Wis. Admin. Code. The petition in this matter alleged that respondent engaged in activities which are reserved by statute to those holding a valid manicurist license under s. 454.04(1)(d), Stats.

The respondent is in default, not having answered the petition as required by administrative rule, and not having appeared at the scheduled hearing. By her default, respondent has effectively admitted all the allegations of the petition. There is no need in this opinion to weigh or discuss evidence, and no issues of fact remain.

The undisputed allegations in the complaint establish that respondent engaged in the practice of manicuring without the professional credential required by s. 454.04(1)(d), Stats. An administrative injunction is authorized by s. 440.21(2), Stats., and chapter RL 3, Wis. Admin. Code, and it is 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: March 26, 2001

William A. Black

Administrative Law Judge

Department of Regulation and Licensing