

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF	:	
THE DISCIPLINARY PROCEEDINGS	:	
AGAINST	:	
	:	FINAL DECISION AND ORDER
MY DUNG THI NGUYEN,	:	LS 0609115BAC
D/B/A NATURAL NAILS,	:	
RESPONDENTS.	:	

Division of Enforcement Case #03 BAC 116

The parties to this action for the purposes of Wis. Stat. § 227.53 are:

My Dung Thi Nguyen
7502 Carrington Drive, Apartment H
Madison, WI 53717

Natural Nails
7475 Mineral Point Road, Suite 32
Madison, WI 53717

Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Barbering and Cosmetology Examining Board
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Barbering and Cosmetology Examining Board. The Board has reviewed the attached Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. My Dung Thi Nguyen, (DOB 12/7/1969) is duly licensed as a manicurist in the State of Wisconsin (license # 4461-85). This license was first granted on March 14, 2001, and is current through June 30, 2007. Respondent’s most recent address on file with the Department of Regulation and Licensing is Apartment H, 7502 Carrington Drive, Madison, WI 53717.
2. Natural Nails is duly licensed as a manicuring establishment in the state of Wisconsin (license #1846-71). The license was first granted on April 23, 2001, and is current through June 30, 2007. Respondent’s most recent address on file with the Department of Regulation and Licensing is Suite 32, 7475 Mineral Point Road, Madison, WI 53717.
3. As owner of Respondent Natural Nails, Respondent Nguyen is and was at all times relevant to this action responsible for compliance with Wis. Stat. chapter 454 and Wisconsin Administrative Code chapters BC 2, 3, and 4.
4. On February 2, 2004, Investigator Kelley Sankbeil of the Department of Regulation and Licensing conducted an inspection at Respondent Natural Nails. The inspection revealed the following:
 - a. Emery boards and buffers were not properly disposed of after use.

- b. There were powdery nail filings on one workstation and chair.
 - c. One set of nail nippers that Respondent Nguyen claimed were used for purposes other than client services was contaminated with a clear, hard substance.
 - d. A container of cleanser was found on the back of a toilet in a public restroom.
 - e. The required blood exposure protocol was not posted in the establishment. Respondent Nguyen claimed that the protocol was on the premises in the company's safety files and that she and her employee had reviewed the protocol.
 - f. Common acrylic and powder bowls were found at each workstation.
5. In resolution of this matter, Respondents consent to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Barbering and Cosmetology Examining Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 454.15, and is authorized to enter into the attached Stipulation and Order, pursuant to Wis. Stat. § 227.44 (5).
2. The conduct described in paragraph four above constitutes a violation of the following statutes and rules:
 - a. Wis. Stat. § 454.15 (2) (i). Violated this chapter or any rule promulgated under this chapter.
 - b. Wis. Administrative Code § BC 2.08 (1) (a). Licensees holding current licenses shall be responsible for compliance with the sanitation and safety precautions contained in Chapter BC 4.
 - c. Wis. Administrative Code § BC 3.01 (1). Establishments, including floors, walls, ceilings, furniture, equipment, tools, utensils, and instruments, shall at all times be in good repair and maintained in an orderly and sanitary condition.
 - d. Wis. Administrative Code § BC 3.01 (6). Establishments shall provide safe and secure areas for storing, cleaning and disinfecting equipment. Poisonous substances stored in public areas shall be locked in a cabinet or closet.
 - e. Wis. Administrative Code § BC 4.01 (1). All areas of an establishment and the equipment, tools, and implements for services shall be maintained in a clean, sanitary and safe condition.
 - f. Wis. Administrative Code § BC 4.01 (3). Powder puffs, sponges and emery boards and other contact equipment that cannot be cleansed with soap or detergent and water shall be disposed of following each use.
 - g. Wis. Administrative Code § 4.01 (4). All liquids, creams, powders and semi-solid substances shall be dispensed from a container in a manner which will prevent contamination of the unused portion of the substance.
 - h. Wis. Administrative Code § BC 4.01 (7). All other equipment and instruments shall be clean to sight and touch.
 - i. Wis. Administrative Code § BC 4.02 (4). Clean and disinfected contact equipment shall be placed in one or more covered containers. One or more separate containers shall be provided for the immediate storage of soiled contact equipment until cleaned and disinfected.
 - j. Wis. Administrative Code § BC 4.05 (2). A licensed establishment shall post a written protocol describing the procedure for unintentional occupational exposure to bodily fluids described in sub. (1). The protocol shall be posted in a place conspicuous to licensees.
 - k. Wis. Administrative Code § BC 4.10 (1). Prior to use, all reusable manicure instruments shall be disinfected.
 - l. Wis. Administrative Code § 4.10 (4). Manicure instruments that cannot be cleaned and disinfected or sterilized shall be disposed of following each use.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

Respondents shall jointly and severally pay to the Department of Regulation and Licensing a forfeiture of four hundred dollars (\$400.00). Respondents shall also pay costs of nine hundred dollars (\$900) in this matter.

Respondents shall, within ninety (90) days from the date of this order, pay the total amount of one thousand three hundred

dollars (\$1,300.00) in forfeitures and costs. Payment shall be made *by certified check or money order* payable to the Wisconsin Department of Regulation and Licensing, and mailed to:

Department Monitor
Division of Enforcement
Department of Regulation and Licensing
P. O. Box 8935
Madison, WI 53708-8935

1. **Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondents fail to submit timely any payment of the forfeiture as set forth above, or fail to pay costs as ordered, , Respondents' licenses SHALL BE SUSPENDED, without further notice or hearing, until Respondents have complied with the terms of this Order.**
2. This Order is effective on the date of its signing.

BARBERING AND COSMETOLOGY EXAMINING BOARD

By: Jeannie M. Bush
A Member of the Board

9/11/06
Date