

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	
ELISABETH A. ZYLKA,	:	FINAL DECISION AND ORDER
	:	LS07020510BAC
RESPONDENT.	:	
	:	

Division of Enforcement Case File Number: 04 BAC 060

The parties to this action for the purposes of Section 227.53 of the Wisconsin statutes are:

Elisabeth A. Zylka
1820 Stoney Lane
Slinger, Wisconsin 53086

Barbering and Cosmetology Examining Board
Post Office Box 8935
Madison, Wisconsin 53708-8935

Department of Regulation and Licensing
Division of Enforcement
Post Office Box 8935
Madison, Wisconsin 53708-8935

PROCEDURAL HISTORY

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 Board. The Board has reviewed this Stipulation and considers it acceptable.

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

FINDINGS OF FACT

1. Elisabeth A. Zylka (Date of Birth of April 15, 1978) is duly licensed in the state of Wisconsin as an aesthetician (license number 86-828). That license was first granted on May 1, 2003, and is current through June 30, 2007. The last address reported to the Department of Regulation and Licensing (hereinafter Department) by Ms. Zylka is 1820 Stoney Lane, Slinger, Wisconsin 53086.
2. From May 5, 2003, through January 25, 2005, Ms. Zylka was employed at Ritz Laser & Skin Center, 17585 West North Avenue, Suite 130, Brookfield, Wisconsin 53045.
3. An inspection of Ritz Laser & Skin Center by Investigator Michelle Krisher of the Department of Regulation and Licensing was conducted on December 7, 2005. During the inspection, Investigator Krisher determined that Ritz Laser & Skin Center did not possess any establishment license. Kathleen Buschmann informed Investigator Krisher that she was the owner of Ritz Laser & Skin Center and that Ritz Laser & Skin Center began providing aesthetics services on May 5, 2003, when a licensed aesthetician, Elisabeth Zylka, began providing aesthetics services. Ms. Buschmann also told Investigator Krisher that Ms. Zylka left Ritz Laser & Skin Center on January 25, 2005.
4. Ritz Laser & Skin Center was first licensed as an aesthetics establishment with the Department on February 9, 2006.

5. In a February 28, 2006, letter to Investigator Krisher, Ms. Zylka wrote that during a February 2003, interview Ms. Buschmann told her that Ritz Laser & Skin Center was fully certified and qualified to perform aesthetics and laser services. Mr. Zylka also wrote that Ms. Buschmann misled her about licensure and if she had known the Ritz Laser & Skin Center was unlicensed that she would not have worked there.

6. In resolution of this matter, Elisabeth A. Zylka consents 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. sec. 454.15.

2. The Wisconsin Barbering and Cosmetology Examining Board is authorized to enter into the attached stipulation pursuant to Wis. Stat. sec. 227.44(5).

3. By the conduct referred to in the above Findings of Fact, Elisabeth A. Zylka has violated:

1. Wis. Stat. sec. 454.08(1)(b). Except as permitted by rule promulgated under par. (a), no person may practice barbering or cosmetology, aesthetics, electrology or manicuring in an establishment unless the establishment is licensed to provide that practice under sub. (2).
2. Wis. Stat. Sec. 454.15(2)(i). Any violation of Chapter 454 or of the Administrative Code promulgated under Chapter 454 is cause for discipline.
3. Wis. Admin. Code § BC 2.04(1). Licensees may not assist or participate in the unauthorized or unlicensed practice of barbering and cosmetology, aesthetics, electrology or manicuring.
4. Wis. Admin. Code § BC 2.04(2). Licensees shall report to the board unauthorized or unlicensed practice or other violations of ch. 454, Stats., and chs. BC 1 to 9.
5. Wis. Admin. Code § BC 2.045. Licensees shall not provide personal care services outside of a licensed establishment, except for persons who are unable to leave their homes because of illness or disability or for person who are in hospitals, nursing homes, correctional institutions or other institutions.
6. Wis. Admin. Code § BC 2.08(1)(b). Licensees holding current licenses or permits granted under ch. 454, Stats., shall:
 - (b) Be responsible for their own professional practice, conduct and compliance with ch. BC 2.
7. Wis. Admin. Code § BC 3.01(1). Barbering and cosmetology, aesthetics, electrology and manicuring shall not be practiced outside the confines of a licensed establishment except as provided in s. BC 2.045.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that Elisabeth A. Zylka shall pay to the Department of Regulation and Licensing a forfeiture of FIVE HUNDRED dollars (\$500.00).

All payments shall be submitted within 90 days from the date of this order. Payment shall be made by ***certified check or money order***, payable to the Wisconsin Department of Regulation and Licensing and sent to:

Department Monitor

1. This Stipulation is entered into as a result of a pending investigation by the Division of Enforcement (04 BAC 060). Ms. Zylka consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.
2. Ms. Zylka understands that by the signing of this Stipulation she voluntarily and knowingly waives her rights, including: the right to a hearing on the allegations against her, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against her; the right to call witnesses on her behalf and to compel their attendance by subpoena; the right to testify herself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to her under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes and the Wisconsin Administrative Code.
3. Ms. Zylka has been provided an opportunity to obtain legal counsel prior to signing this stipulation.
4. Ms. Zylka agrees to the adoption of the attached Final Decision and Order by the Barbering and Cosmetology Examining Board (hereafter "Board"). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Ms. Zylka waives all rights to any appeal of the attached order, if adopted in the form as attached.
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the

Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Barbering and Cosmetology Examining Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Ms. Zylka or her attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with the Board's deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Ms. Zylka is informed that should the Board adopt this stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department policy.

8. The Division of Enforcement joins Elisabeth A. Zylka in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

Elisabeth A. Zylka

Respondent

1820 Stoney Lane

Slinger, Wisconsin 53086

License Number: 86-828

Date

Claudia Berry Miran

Attorney

Division of Enforcement

Wisconsin Department of Regulation and Licensing

Post Office Box 8935

Madison, Wisconsin 53708-8935

Date