

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 :
: FINAL DECISION AND ORDER
WENDY S. GETGEN-PAUL. :
J PAULS II HAIR NAIL TANNING. : LS0706042BAC
RESPONDENTS. :

Division of Enforcement Case File #: **06 BAC 082**

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

Wendy S. Getgen-Paul
2801 E. Main Street, Suite 1
Merrill, WI 54452

J Pauls II Hair Nail Tanning
2801 E. Main Street, Suite 1
Merrill, WI 54452

Department of Regulation and Licensing
Division of Enforcement
PO 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 Department Secretary. The Department Secretary has reviewed this Stipulation and considers it acceptable.

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

FINDINGS OF FACT

1. J Pauls II Hair Nail Tanning (“J Pauls”) is duly licensed as a barbering and cosmetology establishment in the State of Wisconsin having license #080 0030190. This license was first granted on 12/27/01.
2. J Pauls’ most recent address on file with the Department of Regulation and Licensing (“Department”) is: 2801 E. Main Street, Suite 1, Merrill, Wisconsin 54452.
3. Wendy S. Getgen-Paul, date of birth: 11/15/60, is the listed owner of J Pauls. According to Department Records, Mrs. Getgen-Paul is also listed as the barbering and cosmetology manger of record for J Pauls. Mrs. Getgen-Paul is duly licensed as a barbering and cosmetology manager in the State of Wisconsin having license # 081 0016977. This license was first granted on 08/05/85.
4. Mrs. Getgen-Paul’s most recent business address on file with the Department is: 2801 E. Main Street, Suite 1, Merrill, Wisconsin 54452.
5. As an owner and manager of record, Mrs. Getgen-Paul was and is at all times relevant to this action responsible for compliance with Wisconsin Statutes, Chapter 454 and the Wisconsin Administrative Code for Barbering and Cosmetology Chapter 2.

6. On or about July 27, 2006, the Department received a consumer complaint alleging that a licensee was consuming alcohol while providing barbering and cosmetology service to patrons at J Pauls. The complaint also alleged that medications from a licensee were being left on the counter and within public reach.

7. On or about October 4, 2006 and January 10, 2007, inspections of J Pauls were performed by a Department investigator. During both inspections, empty beer cans were found in a break room and at Mrs. Getgen-Paul's workstation. No medications were found to be within public reach at the time of either inspection.

8. Mrs. Getgen-Paul admitted that she had received a driving under the influence (DUI) charge in August 2005. On or about January 2, 2007, Mrs. Getgen-Paul was found guilty of Operating While Under the Influence (1st). Mrs. Getgen-Paul was sentenced to revocation of her driver's license for nine months, an alcohol assessment, and a forfeiture/fine.

9. In resolution of this matter, Wendy S. Getgen-Paul and J Pauls II Hair Nail Tanning consent to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Barbering and Cosmetology Examining Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 454.15.

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

3. Mrs. Wendy S. Getgen-Paul has violated:

Wis. Stat. § 454.15(2)(c) and Wis. Admin. Code § BC 2.03(4) by consuming alcoholic beverages while providing barbering and cosmetology services to a patron. This violation also attaches to J Pauls II Hair Nail Tanning.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is hereby accepted.

NOW, THEREFORE, IT IS ORDERED that:

Wendy S. Getgen-Paul is granted a barbering and cosmetology manager's license with limitations for not less than a period of two years subject to the following terms and conditions.

CONDITIONS AND LIMITATIONS

Treatment Required

1. Mrs. Getgen-Paul shall enter into, and shall continue, in a drug and alcohol treatment program at a treatment facility (Treater) acceptable to the Board or its designee. Mrs. Getgen-Paul shall participate in, cooperate with, and follow all treatment recommended by Treater.

2. Mrs. Getgen-Paul shall immediately provide Treater with a copy of this Final Decision and Order and all other subsequent orders.

3. Treater shall be responsible for coordinating Mrs. Getgen-Paul's rehabilitation, drug monitoring and treatment program as required under the terms of this Order, and shall immediately report any relapse, violation of any of the terms and conditions of this Order, and any suspected unprofessional conduct, to the Department Monitor (See ¶ 20 below). If Treater is unable or unwilling to serve as Treater, Mrs. Getgen-Paul shall immediately seek approval of a successor Treater by the Board or its designee.

4. The rehabilitation program shall include individual and/or group therapy sessions at a frequency to be determined by Treater, but not less than twice per month for the first year. Therapy may end only upon a determination by the Board or its designee after receiving a petition for modification as required by ¶ 23, below.
5. Treater shall submit formal written reports to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess Mrs. Getgen-Paul's progress in the drug and alcohol treatment program. Treater shall report immediately to the Department Monitor any violation or suspected violation of this Order.

Releases

6. Mrs. Getgen-Paul shall provide and keep on file with Treater, all treatment facilities and personnel, laboratories and collections sites current releases complying with state and federal laws. The releases shall allow the Board, its designee, and any employee of the Department of Regulation and Licensing, Division of Enforcement to: (a) obtain all urine, blood and hair specimen screen results and patient health care and treatment records and reports, and (b) discuss the progress of Mrs. Getgen-Paul's treatment and rehabilitation. Copies of these releases shall immediately be filed with the Department Monitor.

AA/NA Meetings

7. Mrs. Getgen-Paul shall attend Narcotics Anonymous and/or Alcoholic Anonymous meetings or an equivalent program for recovering professionals, at the frequency recommended by Treater, but no less than twice per week. Attendance of Mrs. Getgen-Paul at such meetings shall be verified and reported monthly to Treater and the Department Monitor.

Sobriety

8. Mrs. Getgen-Paul shall abstain from all personal use of alcohol.
9. Mrs. Getgen-Paul shall abstain from all personal use of controlled substances as defined in Wis. Stat. § 961.01(4), except when prescribed, dispensed or administered by a practitioner for a legitimate medical condition. Mrs. Getgen-Paul shall disclose Mrs. Getgen-Paul's drug and alcohol history and the existence and nature of this Order to the practitioner prior to the practitioner ordering the controlled substance. Mrs. Getgen-Paul shall at the time the controlled substance is ordered immediately sign a release in compliance with state and federal laws authorizing the practitioner to discuss Mrs. Getgen-Paul's treatment with, and provide copies of treatment records to, Treater and the Board or its designee.
10. Mrs. Getgen-Paul shall abstain from all use of over-the-counter medications or other substances which may mask consumption of controlled substances or of alcohol, create false positive screening results, or interfere with Mrs. Getgen-Paul's treatment and rehabilitation.
11. Mrs. Getgen-Paul shall report all medications and drugs, over-the-counter or prescription, taken by Mrs. Getgen-Paul to Treater and the Department Monitor within 24 hours of ingestion or administration, and shall identify the person or persons who prescribed, dispensed, administered or ordered said medications or drugs. If Mrs. Getgen-Paul has not provided a release as required by ¶ 9 above, within 24 hours of a request by Treater or the Board or its designee, Mrs. Getgen-Paul shall provide releases in compliance with state and federal laws. The releases shall authorize the person who prescribed, dispensed, administered or ordered the medication to discuss Mrs. Getgen-Paul's treatment with, and provide copies of treatment records to, the requester.

Drug and Alcohol Screens

12. Mrs. Getgen-Paul shall enroll and begin participation in a drug and alcohol monitoring program which is approved by the Department pursuant to Wis. Adm. Code § RL 7.11 ("Approved Program"). A list of Approved Programs is available from the Department Monitor.
13. At the time Mrs. Getgen-Paul enrolls in the Approved Program, Mrs. Getgen-Paul shall review all of the rules and procedures made available by the Approved Program. Failure to comply with all requirements for participation in drug and alcohol monitoring established by the Approved Program is a substantial violation of this Order. The requirements shall include:
 - (a) Contact with the Approved Program as directed on a daily basis, including vacations, weekends and holidays.
 - (b) Production of a urine specimen at a collection site designated by the Approved Program within five (5) hours of notification of a test.

14. The Approved Program shall require the testing of urine or ethyl glucuronide (ETG) specimens at a frequency of not less than 28 times per year, for the first year of this Order. After the first year, the frequency may be reduced only upon a determination by the Board or its designee after receiving a petition for modification as required by ¶ 23, below.
15. If any urine, blood or hair specimen is positive or suspected positive for any controlled substances or alcohol, Mrs. Getgen-Paul shall promptly submit to additional tests or examinations as the Treater or the Board or its designee shall determine to be appropriate to clarify or confirm the positive or suspected positive test results.
16. In addition to any requirement of the Approved Program, the Board or its designee may require Mrs. Getgen-Paul to do any or all of the following: (a) submit additional urine or ETG specimens, (b) submit blood, hair or breath specimens, (c) furnish any specimen in a directly witnessed manner.
17. All confirmed positive test results shall be presumed to be valid. Mrs. Getgen-Paul must prove by a preponderance of the evidence an error in collection, testing or other fault in the chain of custody.
18. The Approved Program shall submit information and reports to the Department Monitor in compliance with the requirements of Wis. Adm. Code § RL 7.11.
19. Mrs. Getgen-Paul shall report to the Board any change of employment status, residence, address or telephone number within five (5) days of the date of a change.

MISCELLANEOUS

Department Monitor

20. Any requests, petitions, reports and other information required by this Order shall be mailed, e-mailed, faxed or delivered to:

Department Monitor
Wisconsin Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Ave.
P.O. Box 8935
Madison, WI 53708-8935
Fax: (608) 266-2264
Telephone: (608) 261-7904

Required Reporting by Mrs. Getgen-Paul

21. Mrs. Getgen-Paul is responsible for compliance with all of the terms and conditions of this Order, including the timely submission of reports by others. Mrs. Getgen-Paul shall promptly notify the Department Monitor of any failures of the Treater, treatment facility, Approved Program or collection sites to conform to the terms and conditions of this Order. Mrs. Getgen-Paul shall promptly notify the Department Monitor of any violations of any of the terms and conditions of this Order by Mrs. Getgen-Paul. Additionally, every three (3) months the Mrs. Getgen-Paul shall notify the Department Monitor of the Mrs. Getgen-Paul's compliance with the terms and conditions of the Order, and shall provide the Department Monitor with a current address and home telephone number.

Change of Treater or Approved Program by Board

22. If the Board or its designee determines the Treater or Approved Program has performed inadequately or has failed to satisfy the terms and conditions of this Order, the Board or its designee may direct that Mrs. Getgen-Paul continue treatment and rehabilitation under the direction of another Treater or Approved Program.

Petitions for Modification of Limitations or Termination of Order

23. Mrs. Getgen-Paul may petition the Board for modification of the terms of this Order or termination, however no such petition for modification shall occur earlier than one year from the date of this Order. Any such petition for modification shall be accompanied by a written recommendation from Mrs. Getgen-Paul's Treater expressly supporting the specific modifications sought. Denial of a petition in whole or in part shall not be considered a denial of a license within the meaning of Wis. Stat. § 227.01(3)(a), and Mrs. Getgen-Paul shall not have a right to any further hearings or proceedings on the denial.

Costs of Compliance

24. Mrs. Getgen-Paul shall be responsible for all costs and expenses incurred in conjunction with the monitoring, screening, supervision and any other expenses associated with compliance with the terms of this Order. Being dropped from a program for non-payment is a violation of this Order.

Costs of Proceeding

25. Mrs. Getgen-Paul shall pay costs of \$ 900.00 to the Department of Regulation and Licensing, within 120 days of this Order. In the event Mrs. Getgen-Paul fails to timely submit any payment of costs, Mrs. Getgen-Paul's license (#81, 0016977) and J Pauls II Hair Nail Tanning, license # (#80 0030190) SHALL BE SUSPENDED, without further notice or hearing, until Mrs. Getgen-Paul has complied with the terms of this Order.

Summary Suspension/Additional Discipline

26. The Department may conduct proceedings for a summary suspension under Wis. Admin. Code § RL 6 and/or Wis. Stat. § 454.15 for violations of this Order.
27. This Order shall become effective upon the date of its signing.

IT IS FURTHER ORDERED, that file, 06 BAC 082 be, and hereby is, closed as to Wendy S. Getgen-Paul and J Pauls II Hair Nail Tanning.

Dated this 4th day of June, 2007.

WISCONSIN BARBERING AND COSMETOLOGY EXAMINING BOARD

By: Jeannie M. Bush