

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
:
BONNIE S. PAUL AND :
FOREVER YOUNG SKIN CARE LLC, : LS 0706045 BAC
RESPONDENTS. :

Division of Enforcement Case Nos. 04 BAC 087 and 04 BAC 098

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

Bonnie S. Paul
N479 Bartsch Rd.
Coon Valley, WI 54623

Forever Young Skin Care LLC
2845 Midwest Dr. Ste. 102
Onalaska, WI 54650

Barbering and Cosmetology Examining Board
P.O. Box 8935
Madison, WI 53707-8935

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

PROCEDURAL HISTORY

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition 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. **Bonnie S. Paul** is licensed in the State of Wisconsin as an Aesthetician (license # 86-389) granted on 05/17/99, and as a Manicurist (license # 85-4467) granted on 03/28/01. The most recent address on file with the Department of Regulation and Licensing for Ms. Paul is N479 Bartsch Rd., Coon Valley, WI 54623.

2. **Forever Young Skin Care LLC** is licensed in the State of Wisconsin as an Aesthetics Establishment. It was originally issued license # 69-403 on 07/29/04, for 2350 South Avenue, Suite 209, LaCrosse, WI 54601. Forever Young Skin Care LLC relocated to 2845 Midwest Drive, Onalaska, WI 54650 in 2006, and was issued a new Aesthetics Establishment license, #69-513, on 03/29/06. The original license issued for the LaCrosse location is in “nonworking” status due to the change in location of Forever Young Skin Care LLC.

3. As owner of Forever Young Skin Care LLC, Ms. Paul was at all times relevant to this action responsible for compliance with Wis. Stat. Ch. 454 and Wis. Admin. Code § BC 2.

4. The Department of Regulation and Licensing received two consumer complaints alleging that Ms. Paul had misleading advertising and was perhaps practicing beyond the scope of her license. The complainants provided advertisements showing that Ms. Paul was advertising Forever Young Skin Care under the heading of “electrolysis.” Advertisements included with one of the complaints also showed that Ms. Paul was advertising that Forever Young Skin Care provided Intense Pulsed Light (IPL) “permanent hair removal” and that Ms. Paul referred to herself as a “medical aesthetician.”

5. Ms. Paul does not hold a Wisconsin electrologist license, and Forever Young Skin Care is not a licensed electrology establishment.

6. The Department’s investigation revealed that Ms. Paul and Forever Young Skin Care do not perform electrology, but perform IPL hair removal in addition to other aesthetic services.

7. The Department’s investigation revealed additional advertising by Ms. Paul in which she referred to herself as a “licensed medical aesthetician.”

8. There is no such credential as a “licensed medical aesthetician” in Wisconsin. Ms. Paul is a licensed aesthetician, but she does not have any medical degree or medical license.

9. As part of the Department’s investigation, television commercials advertising Forever Young Skincare were reviewed in which Ms. Paul referred to IPL hair removal as “permanent.”

10. In response to the complaints, Ms. Paul explained that she uses IPL for hair removal and explained that she advertised under “electrolysis” in the phone book because she is providing hair removal. Ms. Paul acknowledged that according to the Food and Drug

Administration (FDA), IPL cannot be advertised as “permanent hair removal,” but rather only as “permanent hair reduction,” and indicated that she would correct all advertising.

11. Ms. Paul has been cooperative with the Department during the course of its investigation, and has removed “licensed medical aesthetician” from her advertising and has corrected all advertising that refers to IPL as providing “permanent hair reduction” rather than “permanent hair removal.” Ms. Paul has also stopped advertising under the heading “electrolysis” and is advertising under the heading “hair removal.”

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 pursuant to Wis. Stat. § 227.44(5).

2. By advertising under the “electrology” section of the phone book, by Ms. Paul referring to herself as a “licensed medical aesthetician,” and by advertising that IPL hair removal is “permanent,” Respondents **Bonnie S. Paul** and **Forever Young Skin Care LLC** violated Wis. Stat. § 454.15(2)(c) and Wis. Admin. Code § BC 2.05(1) by advertising in a manner that is inaccurate and misleading to the public.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. **Bonnie S. Paul**, license # 86-389, and **Forever Young Skin Care LLC**, license # 69-513, shall jointly and severally pay a FORFEITURE in the amount of THREE HUNDRED DOLLARS (\$300.00) within 30 days of the date of this Order.

2. **Bonnie S. Paul**, license # 86-389, and **Forever Young Skin Care LLC**, license # 69-513, shall jointly and severally pay COSTS in the amount of TWO THOUSAND DOLLARS (\$2,000.00) according to the following schedule:

| PAYMENT DUE DATE | PAYMENT AMOUNT |
|------------------|----------------|
| October 6, 2007 | \$500.00 |
| January 7, 2008 | \$500.00 |
| April 7, 2008 | \$500.00 |
| July 7, 2008 | \$500.00 |

3. Payment of the forfeiture and costs shall be made by **certified check or money order**, payable to the Wisconsin Department of Regulation and Licensing and sent to:

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

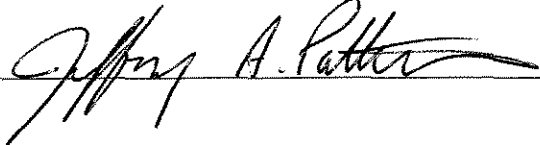
4. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondents' licenses. The Board in its discretion may, in the alternative, impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondents fail to timely submit any payment as ordered, then the Respondents' licenses SHALL BE SUSPENDED without further notice or hearing until Respondents have complied with the terms of this Order.

5. This Order is effective on the date of its signing.

IT IS FURTHER ORDERED, that files, 04 BAC 087 and 04 BAC 098 are hereby closed.

Dated this 4 day of June, 2007.

WISCONSIN BARBERING AND COSMETOLOGY EXAMINING BOARD

By: 

STATE OF WISCONSIN
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 :
 : STIPULATION
BONNIE S. PAUL AND :
FOREVER YOUNG SKIN CARE LLC, : LS 0706045 BAC
RESPONDENTS. :

Division of Enforcement Case Nos. 04 BAC 087 and 04 BAC 098

It is hereby stipulated between Bonnie S. Paul, Forever Young Skin Care LLC, their attorney Gerard O'Flaherty, and Lara M. Herman for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending investigation of Respondents' licensure by the Division of Enforcement (04 BAC 087 and 04 BAC 098). Respondents consent to the resolution of this investigation by Stipulation and without the issuance of a formal complaint.

2. Respondents understand that by the signing of this Stipulation they voluntarily and knowingly waive their rights, including: the right to a hearing on the allegations against them, 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 them; the right to call witnesses on their behalf and to compel their attendance by subpoena; the right to testify themselves; 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 them under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code, and any other provisions of state or federal law.

3. Respondents have been provided an opportunity to obtain legal advice prior to signing this stipulation. Respondents are represented by Gerard O'Flaherty of O'Flaherty Heim Egan LTD, US Bank Place 10th floor, 201 Main St., PO Box 1147, LaCrosse WI 54602-1147.

4. Respondents agree to the adoption of the attached Final Decision and Order by the Barbering and Cosmetology Examining 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. Respondents waive all rights to any appeal of the Board's 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 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 Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of the Respondents or their 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 Board advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondents are 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 procedure.

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

Bonnie S. Paul

Bonnie S. Paul
Respondent
N479 Bartsch Rd.
Coon Valley, WI 54623

4-6-07
Date

Bonnie S. Paul

Bonnie S. Paul, Owner for:
Forever Young Skin Care LLC
Respondent
2845 Midwest Dr. Ste. 102
Onalaska, WI 54650

4-6-07
Date

Gerard O'Flaherty

Gerard O'Flaherty
Respondents' Attorney
O'Flaherty Heim Egan LTD.
P.O. Box 1147
LaCrosse WI 54602-1147

4-17-07
Date

Lara M. Herman

Lara M. Herman, Attorney
Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

4-17-07
Date