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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
	:	
VEDA M. SWAN,	:	Case # LS 0705222 BAC
RESPONDENT.	:	

Division of Enforcement Case # 06 BAC 101

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

Veda M. Swan
2560 North Thirty-fourth Street
Milwaukee, WI 53210

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

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 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. Veda M. Swan (DOB 02/07/1962) is duly licensed as a barbering and cosmetology manager in the State of Wisconsin (license # 27505-81). This license was first granted on 07/22/1998.
2. Respondent’s most recent address on file with the Department of Regulation and Licensing is 2560 North 34th Street, Milwaukee, WI 53210.
3. At all times relevant to this action, Respondent was working as a barbering and cosmetology manager at New Waves Hair Styling Salon, 4481 North Seventy-sixth Street, Milwaukee, WI 53218.
4. On February 23, 2007, Investigator Douglas Austin made an unannounced visit to New Waves Hair Styling Salon as part of the investigation in 06 BAC 101.
5. Investigator Austin did not observe Ms. Swan’s license posted anywhere in the establishment.
6. Investigator Austin asked each licensee present at the time of the visit how often the licensee changed the disinfectant at the licensee’s work station. The answers he received ranged from every other day to once a month. Wis. Administrative Code § BC 4.02 (5) provides that disinfectant used for decontamination shall be changed daily.
7. Investigator Austin noted that several shampoo bowls in the establishment were not in a sanitary condition as required by Wis. Administrative Code § BC 4.01 (5). He did not indicate in his report that the bowl Ms. Swan routinely uses was among the shampoo bowls that were unsanitary.

8. After he returned to the office, Investigator Austin consulted with the attorney assigned to the case regarding whether administrative citations should be issued to individual licensees as well as to the establishment and its manager. He was advised that individual licensees are responsible for compliance with the sanitation and safety precautions in chapter BC 4.
9. On April 17, 2007, Investigator Austin mailed Ms. Swan citations for failing to post her license, for failing to change disinfectant daily, and for failing to maintain the shampoo bowls in a sanitary condition.
10. On May 3, 2007, Ms. Swan requested a hearing to contest the citations. She included with her request for hearing a check in the amount of forfeiture and costs for failing to change disinfectant.
11. Ms. Swan stated in her letter requesting a hearing that the shampoo bowl she regularly uses was not among the ones Investigator Austin found to be unsanitary. She claimed that her license was in a frame on a window ledge near her work station.
12. Ms. Swan contended that she answered Investigator Austin's question regarding the disinfectant truthfully, but that the disinfectant container at her work station is rarely used. She uses a large container underneath the shampoo bowl in her area to hold her used utensils during the day, and that container is emptied and cleaned throughout the day as the utensils are needed.
13. The form used for administrative citations clearly states that payment of the forfeiture and costs listed in an administrative citation is treated as a plea of no contest to the violation cited.

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. Stats. § 227.44 (5).
2. By paying the citation for failing to change disinfectant daily, Ms. Swan admitted the violation cited.
3. There is insufficient evidence to prove that Ms. Swan's license was not posted.
4. There is insufficient evidence to prove that the shampoo bowl routinely used by Ms. Swan was among the bowls that Investigator Austin found in unsanitary condition.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The citation for failing to change disinfectant on a daily basis is hereby upheld..
2. The citations for failing to post a license and for an unsanitary shampoo bowl are dismissed.

This Order is effective on the date of its signing.

By: Jeannie M. Bush
A Member of the Board

2/4/08
Date