

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
	:	
ELLA LOIS SMITH, VERLINA	:	Case # LS 0810061 BAC
HENDERSON and PENNIE’S FULL	:	
SERVICE SALON,	:	
RESPONDENTS.	:	

Division of Enforcement Case # 06 BAC 089

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

Ella Lois Smith
4800 North 18th Street, Apartment 2
Milwaukee, Wisconsin 53209

Verlina Henderson
1422 North 27th Street
Milwaukee, Wisconsin 53208

Pennie’s Full Service Salon
1422 North 27th Street
Milwaukee, Wisconsin 53208

Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Avenue
Post Office Box 8935
Madison, Wisconsin 53708-8935

Barbering and Cosmetology Examining Board
Department of Regulation and Licensing
1400 East Washington Avenue
Post Office Box 8935
Madison, Wisconsin 53708-8935

PROCEDURAL HISTORY

The Division of Enforcement filed a formal complaint in this matter on October 6, 2008. No other proceedings have been held. 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. Ella Lois Smith (Date of Birth: September 24, 1938) is duly licensed in the state of Wisconsin as a barbering or cosmetology manager (license #81-13171). That license was originally granted on May 2, 1975. It expired on June 30, 2007, and was renewed on September 5, 2007. Its current expiration date is March 31, 2009.
2. The last address reported to the Department of Regulation and Licensing (hereafter "Department") by Ms. Smith is Apartment 2, 4800 North 18th Street, Milwaukee, Wisconsin 53209.
3. Verlina Henderson (Date of Birth: November 29, 1962) was duly licensed in the state of Wisconsin as a barbering and cosmetology apprentice (permit #7278-600) from April 1, 2001, through April 1, 2004. That permit was extended for the remaining one year of a four-year maximum on March 23, 2007, and expired on March 23, 2008. At the time Ms. Henderson's apprentice permit expired, she was indentured to Pennie's Full Service Salon.
4. Pennie's Full Service Salon is duly licensed as a barbering and cosmetology establishment in the state of Wisconsin (license #80-33458). That license was first granted on September 29, 2005, and is current until March 31, 2009.
5. The last address reported to the Department of Regulation and Licensing (hereafter "Department") for Ms. Henderson and Pennie's Full Service Salon is 1422 North 27th Street, Milwaukee, Wisconsin 53208.
6. Ella Lois Smith is listed in Department records as manager of record for Pennie's Full Service Salon. As manager of a licensed barbering and cosmetology establishment, Ms. Smith is responsible for compliance with Wis. Stat. chapter 454 and Wisconsin Administrative Code chapters BC 2, 3 and 4.
7. Verlina Henderson is listed in Department records as owner of Pennie's Full Service Salon. As owner of a licensed barbering and cosmetology establishment, Ms. Henderson is responsible for compliance with Wis. Stat. chapter 454 and Wisconsin Administrative Code chapters BC 2, 3 and 4.
8. On November 8, 2006, Investigator Kelley Sankbeil, an employee of the Department, inspected Pennie's Full Service Salon.
9. Investigator Sankbeil found Verlina Henderson, Marquis Baird, Claude Higgins, Frank Henderson and Julian Henderson providing barbering or cosmetology services to customers.
10. None of the five individuals providing barbering or cosmetology services at the time of the inspection had current barbering or cosmetology licenses.
11. Ella Lois Smith was not present in the establishment during the inspection.
12. During the November 8, 2006, inspection, Investigator Sankbeil also found clippers and drawers contaminated with hair.
13. During the November 8, 2006, inspection, Investigator Sankbeil also found disinfectant contaminated with floating hair particles, which is typically a sign that the disinfectant has not been changed daily.
14. During the November 8, 2006, inspection, Investigator Sankbeil also found no supply of rubber gloves, alcohol or peroxide available.
15. During the November 8, 2006, inspection, Investigator Sankbeil also found the public bathroom contained poisonous supplies not stored in a locked cabinet.
16. In resolution of this matter, Ella Lois Smith, Verlina Henderson and Pennie's Full Service Salon 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.

2. The Wisconsin Barbering and Cosmetology Board is authorized to enter into the attached Stipulation and Order pursuant to Wis. Stats. § 227.44 (5).
3. Wis. Stat. § 454.15 (2) (c) provides that engaging in conduct that evidences either a lack of knowledge of professional principles or skills, a lack of the ability to apply professional principles and skills, or both, while practicing barbering or cosmetology is cause for discipline.
4. Wis. Stat. § 454.15 (2) (i) states that a violation of chapter 454 or of the rules promulgated under chapter 454 is cause for discipline.
5. The conduct described in paragraphs 9 and 10 of the Findings of Fact constitutes a violation of Wis. Stat. § 454.04 (1) (a), which provides that no person may engage in barbering or cosmetology unless the person has received training in the areas of services provided and holds a current barbering or cosmetology practitioner or manager license, a temporary permit issued by the Board, or is an apprentice under Wis. Stat. 454.10.
6. The conduct described in paragraphs 9 and 10 of the Findings of Fact is a violation of Wis. Administrative Code § BC 2.04 (1), which provides that licensees may not assist or participate in the unauthorized or unlicensed practice of barbering or cosmetology, aesthetics, electrology, or manicuring.
7. The findings described in paragraph 12 of the Findings of Fact are a violation of Wis. Administrative Code § BC 3.01 (1), which requires establishments, including floors, walls, ceilings, furniture, equipment, tools, utensils and instruments, at all times to be in good repair and maintained in an orderly and sanitary condition.
8. The findings described in paragraph 12 of the Findings of Fact are a violation of Wis. Administrative Code § BC 4.01 (1), which requires all areas of an establishment and the equipment, tools and implements used by licensees for services in an establishment shall be maintained in a clean, sanitary and safe condition.
9. The findings described in paragraph 12 of the Findings of Fact are a violation of Wis. Administrative Code § BC 4.01 (7), which provides that equipment and instruments shall be clean to sight and touch.
10. The findings described in paragraph 12 of the Findings of Fact are a violation of Wis. Administrative Code § BC 4.02 (4), which requires licensees to place clean and disinfected contact equipment in one or more covered containers and to provide one or more separate containers for the immediate storage of soiled contact equipment until cleaned or disinfected.
11. The findings described in paragraph 13 of the Findings of Fact are a violation of Wis. Administrative Code § BC 4.02 (5), which provides that disinfectant used for decontamination shall be changed daily and kept in a covered container.
12. The findings described in paragraph 14 of the Findings of Fact are a violation of Wis. Administrative Code § BC 4.04 (1), which requires all work stations in an establishment to be supplied with one of the antiseptics listed in § BC 4.05.
13. The findings described in paragraph 14 of the Findings of Fact are a violation of Wis. Administrative Code § BC 4.04 (2), which requires that all licensees working in a licensed establishment be supplied with bandages and disposable gloves.
14. The findings described in paragraph 15 of the Findings of Fact are a violation of Wis. Administrative Code § 3.01 (6), which requires poisonous substances stored in public areas to be locked in a cabinet or closet.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the barbering and cosmetology manager license of Ella Lois Smith (license #81-13171) is hereby REPRIMANDED.

IT IS FURTHER ORDERED that the barbering and cosmetology establishment license of Pennie's Full Service Salon (license # 33458-80) is hereby reprimanded.

IT IS ALSO ORDERED that Ella Lois Smith, Verlina Henderson and Pennie's Full Service Salon shall jointly and severally pay partial costs in the amount of FIVE HUNDRED dollars (\$500.00) in this matter.

Payment shall be submitted on the following payment schedule:

Date	Amount
May 1, 2009	\$125.00
August 1, 2009	\$125.00
October 1, 2009	\$125.00
February 1, 2010	\$125.00

The full amount of the forfeiture and costs may be paid at any time prior to each due date for payment.

Payment 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
Post Office Box 8935
Madison, Wisconsin 53708-8935
Telephone (608) 267-3817
FAX (608) 266-2264

In the event Respondents fail to submit timely any payment of the costs as set forth above, the barbering and cosmetology establishment license of Pennie's Full Service Salon (#33458-80) and the barbering and cosmetology manager license of Ella Lois Smith (#13171-81) SHALL BE SUSPENDED, without further notice or hearing until Respondents have complied with the terms of this Order.

This Order is effective on the date of its signing.

BARBERING AND COSMETOLOGY EXAMINING BOARD

By: Jeannie M. Bush
Member of the Board

2/2/09
Date