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STATE OF WISCONSIN
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	AMENDED
BICHYEN T. TRAN and STEEL,	:	FINAL DECISION AND ORDER
MAGNOLIAS BODY SALON &	:	LS # 0905041BAC
SPA,	:	
RESPONDENTS.	:	
	:	

Division of Enforcement Case File Number: 08 BAC 091

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

Bichyan T. Tran
1918 Parmenter Street
Middleton, Wisconsin 53562

Steel Magnolias Body Salon & Spa
1918 Parmenter Street
Middleton, Wisconsin 53562

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

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

PROCEDURAL HISTORY

A disciplinary proceeding was commenced in this matter by the filing of a Notice of Hearing and Complaint with the Barbering and Cosmetology Examining Board on September 14, 2009. Prior to the hearing on the Complaint, the parties in this matter agreed to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Barbering and Cosmetology Examining Board. The Board has reviewed this Stipulation and considers it acceptable.

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

FINDINGS OF FACT

1. Bichyen T. Tran whose date of birth is July 5, 1957, is duly licensed as a barbering or cosmetology manager in the State of Wisconsin (License Number 81-24559). Her license was first granted on October 29, 1991, and is current through March 31, 2011. Ms. Tran’s license was in expired status from July 1, 2007, through September 10, 2007. The last address Ms. Tran reported to the Department of Regulation and Licensing (Department) is 1918 Parmenter Street located in Middleton, Wisconsin 53562.
2. Steel Magnolias Body Salon & Spa is duly licensed as a barbering and cosmetology establishment in the State of Wisconsin (License Number 80-34283). That license was first granted on August 23, 2006, and is current through

March 31, 2011. Steel Magnolias license was in expired status from July 1, 2007, through September 22, 2007. The last address reported to the Department of Regulation and Licensing for Steel Magnolias Body Salon & Spa is 1918 Parmenter Street located in Middleton, Wisconsin 53562. Bichyen T. Tran is listed as the owner and manger of Steel Magnolias Body Salon & Spa in the Department of Regulation and Licensing records.

3. On August 4, 1997, Ms. Tran was disciplined by the Wisconsin Barbering and Cosmetology Examining Board. Ms. Tran was ordered to pay a forfeiture of \$300.00 for allowing an unlicensed person to perform manicuring services, for having no sink in the establishment, and for having no disinfectant at the manicuring table. At that time, Ms. Tran was the owner of Nails by Bic, a licensed manicuring establishment located at 2231 Parmenter Street in Middleton, Wisconsin. A copy of the August 4, 1997, Final Decision and Order is attached to this document as Exhibit A.
4. On or about August 21, 2006, Ms. Tran filed an application for a barbering and cosmetology establishment with the Department of Regulation and Licensing for Steel Magnolia Beauty Salon & Spa located at 1918 Parmenter Street located in Middleton, Wisconsin. Ms. Tran identified herself as the owner of that establishment on the application.
5. Ms. Tran, as owner, answered "NO" to the following question on the application:

Has any licensing or other credentialing agency ever taken any disciplinary action against the establishment, or any of its officers, including but not limited to, any warning, reprimand, suspension, probation, limitation or revocation? **If YES, attach a sheet providing details about the action, including the name of the credentialing agency and date of action.**
6. Ms. Tran made a false statement on the application for an establishment permit for Steel Magnolia Beauty Salon & Spa when she failed to acknowledge the August 4, 1997, Final Decision and Order issued by the Wisconsin Barbering and Cosmetology Examining Board against her.
7. On September 10, 2007, Ms. Tran was disciplined by the Wisconsin Barbering and Cosmetology Examining Board. Ms. Tran's barbering and cosmetology manager's license was suspended for ten (10) working days, she was ordered to pay costs, along with the barbering and cosmetology establishment she managed, of \$8,094.92 and a forfeiture of \$7,650.00. A copy of the September 10, 2007, Final Decision and Order is attached to this document as Exhibit B.
8. Ms. Tran has not made any payments to the Department of Regulation and Licensing for the costs and forfeiture assessed against her in the September 10, 2007, Final Decision and Order (Case No. LS0606191BAC).
9. On September 30, 2008, Investigator Kelley Sankbeil and Paralegal Ted Nehring, both employees of the Department of Regulation and Licensing, inspected Steel Magnolias Body Salon & Spa. During that inspection they found one drawer with loose hair in it; two supposedly clean hairbrushes with hair still in the bristles; one disinfectant contaminated with hair; several clipper guards with hair on them; and drawers with supposedly clean rollers that had paper wraps in them.
10. During the September 30, 2008, inspection, Ms. Tran informed Ms. Sankbeil and Mr. Nehring that she performs microdermabrasion. Ms. Tran stated that she is supervised by a physician in California for the microdermabrasion. Ms. Tran did not have any written medical protocols from the California physician nor was she properly supervised by the California physician.
11. On September 30, 2008, Ms. Tran told Ms. Sankbeil and Mr. Nehring that she did not know that she needed medical supervision and written protocols for delegated medical procedures such as microdermabrasion. Ms. Tran told Ms. Sankbeil and Mr. Nehring that she allowed Katrina Schneider to perform microdermabrasion without a supervising physician or written protocols.
12. Ms. Tran also informed Ms. Sankbeil and Mr. Nehring on September 30, 2008, that Katrina Schneider worked at the establishment as an aesthetician. Ms. Schneider did not have an aesthetics licenses in the State of Wisconsin.

CONCLUSIONS OF LAW

1. The Wisconsin Barbering and Cosmetology Examining Board has jurisdiction to act in this matter pursuant to s. 454.15, Wis. Stats.
2. The Wisconsin Barbering and Cosmetology Examining Board is authorized to enter into the attached stipulation pursuant to s. 227.44 (5), Wis. Stats.
3. By allowing Katrina Schneider to practice as an unlicensed aesthetician at Steel Magnolias Body Salon & Spa as indicated in Paragraph 11 and 12 of the Findings of Fact, Bichyen T. Tran and Steel Magnolias Body Salon & Spa have violated s. 454.04 (1) (b), Wis. Stats.
4. By failing to acknowledge her August 4, 1997, Barbering and Cosmetology Examining Board discipline on the 2006 barbering and cosmetology application for Steel Magnolias Salon & Spa, as set forth in Paragraphs 4-6 of the Findings of Fact, Bichyen T. Tran has violated s. 454.15 (2) (a), Wis. Stats.
5. By not having a physician overseeing the delegated medical procedure of microdermabrasion as performed by Bichyen T. Tran as set forth in Paragraphs 10 and 11 of the Findings of Fact, Steel Magnolias Body Salon & Spa has violated s. BC 2.025 (1), Wis. Admin. Code.
6. By not having written protocols for the delegated medical procedure of microdermabrasion as performed by Bichyen T. Tran as set forth in Paragraphs 10 and 11 of the Findings of Fact, Bichyen T. Tran and Steel Magnolias Body Salon & Spa have violated s. BC 2.025 (3), Wis. Admin. Code.
7. By not having written protocols and a physician to oversee the delegated medical procedure of microdermabrasion as performed by Bichyen T. Tran, as set forth in Paragraphs 10 and 11 of the Findings of Fact, Bichyen T. Tran and Steel Magnolias Body Salon & Spa have violated ss. BC 2.03 (1), (2), and (5) Wis. Admin. Code.
8. By assisting in the unlicensed aesthetics practice of Katrina Schneider, as set forth in Paragraph 12 of the Findings of Fact, Bichyen T. Tran and Steel Magnolias Body Salon & Spa have violated s. BC 2.04 (1) and (2), Wis. Admin. Code.
9. As the owner of Steel Magnolias Body Salon & Spa, Bichyen T. Tran is responsible under s. BC 2.06, Wis. Admin. Code, for complying with the provisions set forth in ch. 454, Wis. Stats., and chs. BC 2, 3, and 4, Wis. Admin. Code.
10. As the manager of Steel Magnolias Body Salon & Spa, Bichyen T. Tran is responsible under s. BC 2.07, Wis. Admin. Code, for the daily operations of that establishment and for ensuring that the establishment complies with the provisions set forth in ch. 454, Wis. Stats., and chs. BC 3 and 4, Wis. Admin. Code.
11. By allowing clean equipment to be contaminated with hair and paper warps, by having a disinfectant container contaminated with hair, and by having a drawer with loose hair in it as set forth in Paragraph 8 of the Findings of Fact, Bichyen T. Tran and Steel Magnolias Body Salon & Spa have violated ss. BC 2.08 (1) (a), 4.01 (1) and (7), and 4.02 (4) and (5), Wis. Admin. Code.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the barbering or cosmetology manager license (License Number 81-24559) of Bichyen T. Tran shall be **REVOKED**.

NOW, THEREFORE, IT IS HEREBY ORDERED that the barbering or cosmetology establishment license (License Number 80-34283) of Steel Magnolias Body Salon & Spa shall be **REVOKED**.

IT IS FURTHER ORDERED that Bichyen T. Tran and Steel Magnolias Body Salon & Spa shall jointly pay full costs in the amount of **ONE THOUSAND THREE HUNDRED** dollars (\$1,300.00) in this matter.

IT IS FURTHERED ORDERED that Bichyen T. Tran shall also pay the assessed forfeiture in the amount of \$7,650.00 pursuant to the Final Decision and Order in Case Number LS0606191BAC. Bichyen T. Tran shall also pay the assessed costs of \$8,094.92, plus any accrued interest, pursuant to the Final Decision and Order in Case Number LS0606191BAC.

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
Post Office Box 8935
Madison, Wisconsin 53708-8935
608-261-7904

In the event that Bichyen T. Tran makes an application for any Wisconsin barbering or cosmetology practitioner license, barbering or cosmetology manager license, aesthetician license, electrologist license or manicurist license or makes an application for a barbering or cosmetology establishment license, aesthetics establishment license, electrology establishment license or manicuring establishment license, she shall personally appear before the Wisconsin Barbering and Cosmetology Examining Board. The Wisconsin Barbering and Cosmetology Examining Board shall have the sole determination to issue any type of license to Bichyen T. Tran, or to issue any license with any limitations or conditions.

This Order shall become effective upon the date of its signing.

BARBERING AND COSMETOLOGY EXAMINING BOARD

By: Jeannie M. Bush
A member of the Board

9/14/09
Date