

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 :

USA NAIL SALON and :
HUNG VAN NGUYEN :
RESPONDENTS. :

FINAL DECISION AND ORDER
ORDER 00000316

Division of Enforcement Case File Number: 09 BAC 042

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

Hung Van Nguyen
W7565 County Road MMM
Shawano, Wisconsin 54166

USA Nail Salon
1053 E. Green Bay Street
Shawano, Wisconsin 54166

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

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 Barbering and Cosmetology Examining 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. Hung Van Nguyen whose date of birth is June 2, 1964, is duly licensed as a manicurist in the State of Wisconsin (License Number 85-3248). His license was first granted on January 30, 1998, and is current through March 31, 2011. The last address Mr. Nguyen

reported to the Department of Regulation and Licensing (Department) is W7565 County Road MMM located in Shawano, Wisconsin.

2. USA Nail Salon is duly licensed as a manicuring establishment in the State of Wisconsin (License Number 71-2358). That license was first granted on October 28, 2003, and is current through March 31, 2011. The last address reported to the Department of Regulation and Licensing for USA Nail Salon is 1053 E. Green Bay Street located in Shawano, Wisconsin. Hung Van Nguyen is listed as the owner of USA Nail Salon in the Department of Regulation and Licensing records.
3. On June 7, 2004, Mr. Nguyen and USA Nail Salon were disciplined by the Wisconsin Barbering and Cosmetology Examining Board. A forfeiture of \$1200.00 was assessed for failing to have an establishment license, for not ensuring equipment was properly cleaned and sanitized, and for not properly disposing used items. A copy of that Final Decision and Order is attached to this document as Exhibit A.
4. On July 24, 2009, Investigator Michelle Krisher, an employee of the Department of Regulation and Licensing, conducted an unannounced inspection of USA Nail Salon. During that inspection she found workstation drawers containing nail dust, used and unused emery boards, a used nail buffer, and metal implements. She also discovered Lysol Toilet Bowl cleaner stored on the floor in the public restroom and a plastic plumbing pipe traversing the hallway that leads to the public restroom. Additionally, there were no establishment or individual licenses posted in the salon.
5. During that same inspection Ms. Krisher was further advised that Murphy's Oil Soap was used as the cleaning agent for the pedicure spas. Mr. Nguyen also admitted to Ms. Krisher that his two school-age daughters have assisted him in the nail salon after school by doing manicures and polishing fingernails. He denied that his daughters had ever provided pedicure services.

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 his daughters to practice as unlicensed manicurists at USA Nail Salon as set forth in Paragraph 5 of the Findings of Fact, Hung Van Nguyen and USA Nail Salon are in violation of s. 454.04 (1) (d), Wis. Stats., and s. BC 2.04 (1), Wis. Admin. Code.
4. By allowing the reuse of disposable implements as set forth in Paragraph 4 of the Findings of Fact, Hung Van Nguyen and USA Nail Salon are in violation of s. 4.10 (4), Wis. Admin. Code.

5. By improperly disinfecting the pedicure spas as set forth in Paragraph 5 of the Findings of Fact, Hung Van Nguyen and USA Nail Salon are in violation of ss. BC 4.02 (1), Wis. Admin. Code.
6. By improperly storing clean contact equipment as set forth in Paragraph 4 of the Findings of Fact, Hung Van Nguyen and USA Nail Salon are in violation of ss. BC 4.02 (4), Wis. Admin. Code.
7. By having a trip hazard in a public hallway as set forth in Paragraph 4 of the Findings of Fact, Hung Van Nguyen and USA Nail Salon are in violation of ss. BC 4.01 (1), Wis. Admin. Code.
8. By failing to post the establishment license as set forth in Paragraph 4 of the Findings of Fact, Hung Van Nguyen and USA Nail Salon are in violation of ss. BC 3.01 (13), Wis. Admin. Code.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that Hung Van Nguyen (License Number 85-3248) and USA Nail Salon (License Number 71-2358) are **REPRIMANDED**.

IT IS FURTHER ORDERED that Hung Van Nguyen and USA Nail Salon shall pay a forfeiture in the amount of **TWO THOUSAND ONE HUNDRED AND TWENTY-FIVE** dollars (\$2,125.00) in this matter.

IT IS FURTHER ORDERED that Hung Van Nguyen and USA Nail Salon shall pay full costs in the amount of **SIX HUNDRED THIRTY-SIX** dollars (\$636.00) in this matter.

All payments shall be submitted within 180 days from the date of this order. 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

IT IS FURTHER ORDERED that in the event that Hung Van Nguyen and USA Nail Salon fail to timely submit any payment of the forfeiture and costs as set forth above, the manicurist license of Hung Van Nguyen (License Number 85-3248) and the establishment license of USA Nail Salon (License Number 71-2358) **SHALL BE SUSPENDED**, without further notice or hearing until Hung Van Nguyen and USA Nail Salon have complied with the terms of this Order.

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

