

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
STAR NAILS AND	:	
KIMBERLY H. LE,	:	
RESPONDENTS.	:	ORDER 0001086

Division of Enforcement Case Nos. 10 BAC 100, 10 BAC 132, and 11 BAC 014

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

Star Nails
6530 Monona Drive
Monona, WI 53716

Kimberly H. Le
5101 Hazecrest Drive
Madison, WI 53704

Wisconsin Barbering and Cosmetology Examining Board
P.O. Box 8935
Madison, WI 53708-8935

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

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 Barbering and Cosmetology Examining Board (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, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Star Nails is licensed in the State of Wisconsin as a Manicuring Establishment, having license number 71-3274. This license was first granted on 1/25/2008 and is current through 3/31/2013. Star Nails' most recent address on file with the Department of Regulation and Licensing (Department) is 6530 Monona Drive, Monona, WI 53716.

2. Respondent Kimberly H. Le (dob 12/31/79) is licensed in the State of Wisconsin as a Manicurist, having license number 85-6072, first issued on 6/16/2005 and current through 3/31/2013. Kimberly H. Le's most recent address on file with the Department is 5101 Hazecrest Drive, Madison, WI 53704.

3. Kimberly H. Le is the owner and manager of Star Nails. As owner and manager, Kimberly H. Le was at all times relevant to this action responsible for compliance with Wis. Stat. Ch. 454 and Wis. Admin. Code §§ BC 2 and BC 4.

4. The Department received three complaints against Star Nails and Kimberly H. Le on 11/3/2010, 12/27/10, and 1/31/11, respectively, alleging unlicensed practice and various sanitation violations.

5. On 3/3/2011, a Department investigator inspected Star Nails. The investigator observed an unlicensed employee, Anh Le, providing manicuring services.

6. During the same inspection, the investigator observed three sanitation violations:

- a. The investigator noted debris in the drain filters of four Pedi Chairs;
- b. The establishment was not using the proper disinfectant (tuberculocidal) in the Pedi Chairs; and
- c. Several used buffers and emery boards, in addition to excessive nail dust, were found in work station drawers. Excessive nail dust was also noted on work station table tops and in areas of the work stations where contact equipment was stored.

7. In resolution of this matter, Respondents Star Nails and Kimberly H. Le 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, and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. Respondents Star Nails and Kimberly H. Le have violated Wis. Admin. Code § BC 2.04(1) by assisting in the unlicensed practice of manicuring by an employee, as described in paragraph 5 of the Findings of Fact.

3. Respondents Star Nails and Kimberly H. Le have violated Wis. Admin. Code § BC 4.01(1) by failing to maintain all areas of the establishment and the equipment used by licensees in a clean, sanitary and safe condition, as described in paragraphs 6(a) and 6(c) of the Findings of Fact.

4. Respondents Star Nails and Kimberly H. Le have violated Wis. Admin. Code § BC 4.02(3) by failing to properly maintain the Pedi Chairs in a clean, sanitary, and safe condition

by spraying with a tuberculocidal disinfectant and air drying, as described in paragraph 6(b) of the Findings of Fact.

5. Respondents Star Nails and Kimberly H. Le have violated Wis. Admin. Code § BC 4.10(4) by failing to dispose of instruments that cannot be sterilized following each use, as described in paragraph 6(c) of the Findings of Fact.

6. As a result of these violations, Star Nails and Kimberly H. Le are subject to discipline pursuant to Wis. Stat. § 454.15(2)(i) and § 454.15(3).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The attached Stipulation is hereby accepted.
2. Star Nails (license number 71-3274) and Kimberly H. Le (license number 85-6072) are hereby reprimanded.
3. Respondent Star Nails shall pay a forfeiture in the amount of seven hundred and thirty-seven dollars (\$737.00) and costs in the amount of two hundred dollars (\$200.00), for a total of nine hundred and thirty-seven dollars (\$937.00).
4. Respondent Kimberly H. Le shall pay a forfeiture in the amount of seven hundred and thirty-seven dollars (\$737.00) and costs in the amount of two hundred dollars (\$200.00), for a total of nine hundred and thirty-seven dollars (\$937.00).
5. Payment of the costs and forfeiture shall be submitted within 180 days from the date of this order. Payment of the costs and forfeiture shall be made 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) 267-3817, Fax (608) 266-2264

6. 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 payment of the costs and forfeiture as set forth above, the Respondents' licenses (Star Nails – license number 71-3274; Kimberly H. Le – license number 85-6072) may, in the discretion of the board or its designee, be SUSPENDED, without further notice or hearing, until Respondents have complied with payment of the costs and forfeiture.

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

WISCONSIN BARBERING AND COSMETOLOGY EXAMINING BOARD

by: Jane M. Boeck
A Member of the Board

9-12-11
Date