

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

NGOC V. NGUYEN AND ROSE NAILS,
RESPONDENT.

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:

FINAL DECISION AND ORDER

0003442

Division of Legal Services and Compliance Case No. 13 BAC 137

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

Ngoc V. Nguyen
15873 N Ranger Estates Dr.
Hayward, WI 54843

Rose Nails
15533 Rail Road St.
Hayward, WI 54843

Wisconsin Cosmetology Examining Board
P.O. Box 8366
Madison, WI 53708-8366

Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190

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 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 Ngoc V. Nguyen (dob December 31, 1978) is licensed in the State of Wisconsin as a Manicurist, having license number 6162-85, first issued on July 25, 2005 and current through March 31, 2015. Respondent Nguyen's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 15873 N Ranger Estates Dr., Hayward, Wisconsin 54843.

2. Respondent Rose Nails is licensed in the State of Wisconsin as a Manicuring Establishment, having license number 3710-71, first issued on September 24, 2010 and current through March 31, 2015. Respondent Rose Nails' most recent address on file with the Department is 15533 Rail Road St., Hayward, Wisconsin 54843. Respondent Nguyen is identified in Department records as the licensee in charge of Respondent Rose Nails.

3. On December 3, 2012, the Board imposed forfeitures against Respondents for providing personal care services outside of a licensed establishment in violation of Wis. Admin. Code § BC¹ 2.045(1) and failing to dispose of manicure instruments that cannot be cleaned and disinfected or sterilized in violation of Wis. Admin. Code § BC 4.10(4).

4. On August 21, 2013, the Department received a complaint alleging that Respondent Rose Nails was an unsanitary establishment and that its license was expired. Division of Legal Services and Compliance Case No. 13 BAC 137 was subsequently opened for investigation.

5. Department records show that Respondent Rose Nails' manicuring establishment license was in expired status from April 8, 2013 through February 12, 2014.

6. On February 6, 2014, a department investigator made an unannounced inspection of Respondent Rose Nails. The investigator observed the following:

- a. Respondent Nguyen's current license was not posted in the establishment;
- b. Respondent Rose Nails' license was not posted in the establishment;
- c. Several used buffer blocks and emery boards at multiple workstations;
- d. Debris in the bottom of three out of four pedicure chairs;
- e. Filter covers in the pedicure chairs which either could not be removed or contained a black substance on the inside of the cover;
- f. Glass jars holding disinfectant and several manicure tools, which were stored on workstation counters, did not have covers on them;
- g. Visible nail dust and other debris in the bottom of drawers where allegedly clean implements were stored;
- h. Unclean workstation counters containing nail dust; and
- i. Poisonous substances stored in a public area (bathroom) were not locked in a cabinet or closet.

7. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

¹ Wisconsin Administrative Code Ch. BC was renumbered as Ch. COS as of March 1, 2013.

CONCLUSIONS OF LAW

1. The Wisconsin 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. By the conduct described in the Findings of Fact, Respondent Nguyen violated Wis. Stat. § 454.08(1)(b) and Wis. Admin. Code § COS 2.045(1) and 3.01(1) by practicing manicuring in an unlicensed establishment.
3. By the conduct described in the Findings of Fact, Respondents violated Wis. Stat. § 454.08(8) and Wis. Admin. Code § COS 3.01(13) by failing to post the establishment's license.
4. By the conduct described in the Findings of Fact, Respondents violated Wis. Admin. Code § COS 3.01(6) by failing to keep poisonous substances stored in a public area in a locked cabinet or closet.
5. By the conduct described in the Findings of Fact, Respondents violated Wis. Admin. Code § COS 4.01(1) by failing to maintain all areas of the establishment and the equipment, tools and implements used for services in the establishment, in a clean, sanitary and safe condition.
6. By the conduct described in the Findings of Fact, Respondents violated Wis. Admin. Code § COS 4.02(1) by failing to disinfect personal care instruments prior to reuse on another patron.
7. By the conduct described in the Findings of Fact, Respondents violated Wis. Admin. Code § COS 4.10(2) by failing to keep disinfectant in a covered container.
8. By the conduct described in the Findings of Fact, Respondents violated Wis. Admin. Code § COS 4.10(4) by failing to dispose manicure instruments that cannot be cleaned and disinfected or sterilized following each use.
9. As a result of the above violations, Respondents Ngoc V. Nguyen and Rose Nails are subject to discipline pursuant to Wis. Stat. §§ 454.15(2)(i) and 454.15(3).

ORDER

1. The attached Stipulation is accepted.
2. The manicurist license of Respondent Ngoc V. Nguyen (license number 6162-85) is hereby **SUSPENDED** for a period of 10 business days beginning 15 days after the date of this Order.
3. The manicuring establishment license of Respondent Rose Nails (license number 3710-71) is hereby **SUSPENDED** for a period of 10 business days beginning 15 days after the date of this Order.

4. Within 120 days from the date of this Order, Respondent Ngoc V. Nguyen shall pay one half of the forfeitures in this matter in the amount of \$975.00 and one half of the costs of this matter in the amount of \$229.00.

5. Within 120 days from the date of this Order, Respondent Rose Nails shall pay one half of the forfeitures in this matter in the amount of \$975.00 and one half of the costs of this matter in the amount of \$229.00.

6. Payment of forfeitures and costs shall be made payable to the Wisconsin Department of Safety and Professional Services and sent by Respondents to the Department Monitor at the address below:

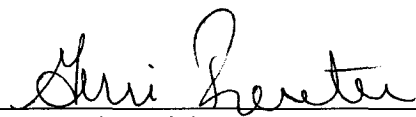
Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

7. 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 forfeitures and costs as ordered, Respondents' licenses (nos. 6162-85 and 3710-71) 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 forfeitures and costs.

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

WISCONSIN COSMETOLOGY EXAMINING BOARD

by:


A Member of the Board

9/30/2014
Date

STATE OF WISCONSIN
BEFORE THE COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

NGOC V. NGUYEN AND ROSE NAILS,
RESPONDENTS.

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:
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:
:

STIPULATION

0003442

Division of Legal Services and Compliance Case No. 13 BAC 137

Respondents, Ngoc V. Nguyen and Rose Nails, and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondents consent to the resolution of this investigation by Stipulation.

2. Respondents understand that by signing this Stipulation, Respondents voluntarily and knowingly waive the following rights:

- the right to a hearing on the allegations against Respondents, at which time the State has the burden of proving those allegations by a preponderance of the evidence;
- the right to confront and cross-examine the witnesses against Respondents;
- the right to call witnesses on Respondents' behalf and to compel their attendance by subpoena;
- the right to testify on Respondents' own behalf;
- the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision;
- the right to petition for rehearing; and
- all other applicable rights afforded to Respondents under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Respondents are aware of Respondents' right to seek legal representation and have been provided an opportunity to obtain legal counsel before signing this Stipulation.

4. Respondents agree to the adoption of the attached Final Decision and Order by the Wisconsin Cosmetology Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondents waive all rights to any appeal of the Board's order, if adopted in the form as attached.

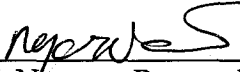
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondents, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondents are informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.


8. The Division of Legal Services and Compliance joins Respondents in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



Ngoc V. Nguyen, Respondent
15873 N Ranger Estates Dr.
Hayward, WI 54843
License No. 6162-85

4/2/14

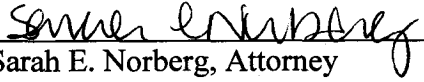
Date



Rose Ngals, Respondent
by Ngoc V. Nguyen
15533 Rail Road St.
Hayward, WI 54843
License No. 3710-71

4/2/14

Date



Sarah E. Norberg, Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

4.7.14

Date