

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 :
 : FINAL DECISION AND ORDER
ELITE NAILS OF APPLETON LLC, :
RESPONDENT. :
 : 0004770

Division of Legal Services and Compliance Case No. 15 BAC 047

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

Elite Nails of Appleton LLC
4301 W. Wisconsin Ave. #142
Appleton, WI 54913

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 Wisconsin 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 Elite Nails of Appleton LLC is licensed by the State of Wisconsin as a manicuring establishment, having license number 4607-71, first issued on July 16, 2015 and current through March 31, 2017. Respondent is also licensed by the State of Wisconsin as an aesthetics establishment, having license number 1361-69, first issued on July 16, 2015 and current through March 31, 2017. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 4301 West Wisconsin Avenue #142, Appleton, Wisconsin 54913.

2. On January 13, 2016, an investigator with the Department performed a complaint-based inspection at Elite Nails of Appleton, LLC. The inspection revealed the following:

- a. An unlicensed individual was performing manicures on customers for compensation.
- b. Elite Nails of Appleton, LLC's establishment licenses were not posted, and the licenses of individuals working at Elite Nails of Appleton, LLC were not posted.
- c. A used buffer block and nail file was being stored at a workstation next to clean emery boards.
- d. Manicuring equipment was lying on top of the paraffin wax lid.
- e. Towels were stored under the towel warmer out in the open and not in a covered container.
- f. Brushes were sitting uncovered on top of workstations.
- g. Waxing paper was stored out in the open and not in a covered container.
- h. The Barbicide container did not have a cover.
- i. Elite Nails of Appleton, LLC uses a nail product containing Methyl Methacrylate Monomer, commonly referred to as MMA, on customers.
- j. Elite Nails of Appleton, LLC staff was aware that water had been backing out of a foot spa for at least two (2) months prior to the inspection date, and the problem was not addressed until after the inspection date.

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

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 violated Wis. Admin. Code § Cos 2.04(1) by assisting or participating in the unauthorized or unlicensed practice of manicuring.
3. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § Cos 2.03(9) by using a cosmetic or nail product formulated with methyl methacrylate monomer, commonly referred to as MMA.
4. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § Cos 2.06(2) by failing to provide supplies and equipment necessary to maintain safe and sanitary establishment conditions.

5. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § Cos 3.01(13) by failing to post the establishment licenses in the establishment.

6. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § Cos 4.02(4) by failing to place clean and disinfected contact equipment in one (1) or more covered containers.

7. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § Cos 4.02(5) by failing to keep disinfectant used for decontamination in a covered container.

8. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § Cos 4.10(4) by failing to dispose of manicure instruments that cannot be cleaned and disinfected or sterilized following each use.

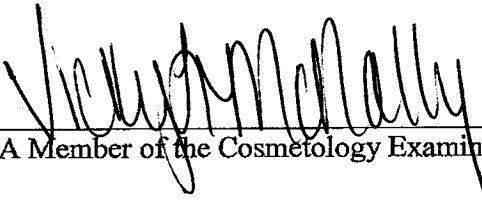
9. As a result of the above violations, Elite Nails of Appleton LLC is subject to discipline pursuant to Wis. Stat. § 454.15(2)(i) and (3).

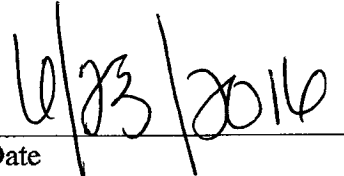
ORDER

1. The attached Stipulation is accepted.
2. The manicuring establishment and aesthetics establishment licenses issued to Respondent Elite Nails of Appleton LLC (numbers 4607-71 and 1361-69) are hereby **SUSPENDED** for ten (10) days, beginning fifteen (15) days after the date of this Order.
3. This Order is effective on the date of its signing.

WISCONSIN COSMETOLOGY EXAMINING BOARD

by:


A Member of the Cosmetology Examining Board


Date

STATE OF WISCONSIN
BEFORE THE COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
: STIPULATION
ELITE NAILS OF APPLETON LLC, :
RESPONDENT. : 0004770

Division of Legal Services and Compliance Case No. 15 BAC 047

Respondent Elite Nails of Appleton LLC 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. Respondent consents to the resolution of this investigation by Stipulation.

2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Respondent, 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 Respondent;
- the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
- the right to testify on Respondent's 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 Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation.

4. Respondent agrees 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. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

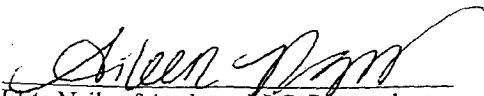
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

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.

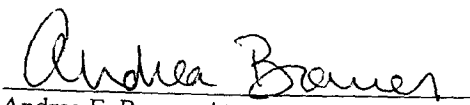
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes 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. Respondent is 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 Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.


Elite Nails of Appleton LLC, Respondent
By: Authorized Representative
4301 W. Wisconsin Ave. #142
Appleton, WI 54913
License nos. 4607-71 and 1361-69

4/19/16
Date


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

4/22/16
Date

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