

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
LY LY NAILS & SPA, :
RESPONDENT. : **ORDER UUU7063**

Division of Legal Services and Compliance Case No. 18 BAC 006

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

Ly Ly Nails & Spa
Greenfield, WI 53220

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 Ly Ly Nails & Spa is licensed by the state of Wisconsin as a Manicuring Establishment, having license number 4549-71, first issued on May 1, 2015, and current through March 31, 2021. Respondent's most recent address on file with the Department of Safety and Professional Services (Department) is in Greenfield, Wisconsin 53220.

2. On February 4, 2018, the Department received a complaint against Respondent alleging that a customer had been diagnosed with Paronychia, a bacterial skin infection after receiving services from Respondent on January 30, 2018. The Division of Legal Services and Compliance (DLSC) subsequently opened Case Number 18 BAC 006 for investigation.

3. On February 3, 2018, Complainant sought medical treatment for a foot problem. She was diagnosed with Paronychia, a bacterial skin infection. She was prescribed an ointment to treat her infection.

4. Complainant received services on January 30, 2018 at Respondent's salon. Complainant contends that her toenail was filed down so much it made her skin raw. Complainant also contends the salon used dirty implements during her pedicure.

5. On May 10, 2018, an inspection of Respondent was conducted by a Department investigator. During the inspection the investigator noted the following:

- a. An individual provided manicuring services without a Wisconsin cosmetology or manicuring license.
- b. Respondent had several sanitary violations, including:
 - i. Single use equipment was not discarded after use;
 - ii. Barbicide was being used to disinfect contact equipment in uncovered containers and was not fully covering the equipment being disinfected;
 - iii. Floor was covered with nail clippings and various debris;
 - iv. Contact equipment was not stored in covered containers at nail workstations or sterilized correctly;
 - v. The paraffin wax warming container appeared to have dirt or debris on the bottom; and paraffin wax was not being disposed of after each use.

6. On July 22, 2019, a Department investigator conducted a record check and found Respondent's manicuring establishment license had expired on April 1, 2019.

7. On July 22, 2019, the Department investigator called Respondent. Respondent admitted to practicing manicuring services since April 1, 2019.

8. On July 23, 2019, Respondent renewed its manicuring establishment license.

9. 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 2.03(1) by failing to perform services in a manner that is consistent with

basic and accepted practice standards and in accordance with all state statutes, board rules and local codes and ordinances.

3. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § Cos 2.04(1) by assisting in the unlicensed practice of manicuring.

4. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § Cos 3.01(1) by failing to keep the establishment, including floors, walls, ceilings, furniture, equipment, tools, utensils, and instruments, in good repair and in an orderly and sanitary condition.

5. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § Cos 4.01(1) by failing to maintain an establishment and the equipment, tools and implements used by licensees for services in the establishment, in a clean, sanitary and safe condition.

6. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § Cos 4.02(1) by failing to disinfect personal care instruments for reuse.

7. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § Cos 4.10 (1)-(4), by:

- a. failing to disinfect all reusable manicure instruments prior to reuse,
- b. failing to keep the disinfectant used for decontamination in a covered container and change it daily,
- c. failing to perform sterilization in accordance with Wis. Admin. Code § Cos 4.03, and
- d. failing to dispose all manicure instruments that cannot be cleaned and disinfected or sterilized after each use.

8. As a result of the above violations, Respondent is subject to discipline pursuant to Wis. Stat. § 454.15(2)(i) and (3).

ORDER

1. The attached Stipulation is accepted.
2. Respondent Ly Ly Nails & Spa is REPRIMANDED.
3. Within ninety (90) days from the date of this Order, Respondent Ly Ly Nails & Spa shall pay a FORFEITURE in the amount of \$900 and the COSTS of this matter in the amount of \$1,418.
4. Payment of forfeiture and costs (made payable to the Wisconsin Department of

Safety and Professional Services) shall be sent by Respondent 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

You may also submit this information online via DSPS' Monitoring Case Management System at: <https://dpsmonitoring.wi.gov/>

5. In the event Respondent violates any term of this Order, Respondent's credential (number 4549-71), or Respondent's right to renew its credential, may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of the Order. The Board may, in addition and/or in the alternative, refer any violation of this Order to the Division of Legal Services and Compliance for further investigation and action.

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

WISCONSIN COSMETOLOGY EXAMINING BOARD

by: *Vicki D. McRally*
A Member of the Board

2 November 2020
Date

STATE OF WISCONSIN
BEFORE THE COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

LY LY NAILS & SPA,
RESPONDENT.

STIPULATION

ORDER 0007063

Division of Legal Services and Compliance Case No. 18 BAC 006

Respondent Ly Ly Nails & Spa 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.



Ly Ly Nails & Spa, Respondent
By: Son Luu, Responsible Licensee
Green Field, WI 53220
License No. 4549-71

09/10/2020
Date

Renee M. Parton

Renee Parton, Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

09/14/2020
Date