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Before The
State Of Wisconsin
COSMETOLOGY EXAMINING BOARD

In the Matter of the Disciplinary Proceedings
Against Tamir L. Williams, Respondent.

FINAL DECISION AND ORDER

Order No. **ORDER 0008376**

Division of Legal Services and Compliance Case No. 21 BAC 036

The State of Wisconsin, Cosmetology Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, make the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Cosmetology Examining Board.

The rights of a party aggrieved by this Decision to petition the Board for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated at Madison, Wisconsin on the 24th day of January, 2023.



DSPS Chief Legal Counsel
Delegate

~~Member~~
~~Cosmetology Examining Board~~



**Before The
State Of Wisconsin
DIVISION OF HEARINGS AND APPEALS**

In the Matter of Disciplinary Proceedings
Against Tamir L. Williams, Respondent.

DHA Case No. SPS-22-0036
DLSC Case No. 21 BAC 036

PROPOSED DECISION AND ORDER

The parties to this proceeding for purposes of Wis. Stat. §§ 227.47(1) and 227.53 are:

Tamir L. Williams
1024 Main St. #311
Racine, WI 53403

Tamir L. Williams #2021004116
C/O Racine County Jail
717 Wisconsin Ave.
Racine, WI 53403

Wisconsin Department of Safety and Professional Services
P.O. Box 8366
Madison, WI 53766

Department of Safety and Professional Services, Division of Legal Services and Compliance, by

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

PROCEDURAL HISTORY

On May 25, 2022, the Department of Safety and Professional Services (Department), Division of Legal Services and Compliance (Division), served the Notice of Hearing and the Complaint in this matter on Respondent Tamir L. Williams, by mailing a copy to his address on file with the Department via both certified and regular mail, pursuant to Wis. Stat. § 440.11(2) and Wis. Admin. Code § SPS 2.08. The Respondent failed to file an Answer to the Complaint as required by Wis. Admin. Code § SPS 2.09(4).

Following expiration of the 20-day period to file an Answer, the undersigned Administrative Law Judge (ALJ), Andrea Brauer, scheduled a telephone prehearing conference for June 30, 2022, at 1:30 p.m. The Respondent did not appear.

On July 5, 2022, the ALJ issued a Notice of Default and Order against the Respondent and ordered the Division to file a recommended Proposed Decision and Order by August 30, 2022.

FINDINGS OF FACT

Facts Related to the Alleged Violations

Findings of Facts 1-6 are set forth in the Division's Complaint against Respondent filed in this matter.

1. Tamir L. Williams (Respondent), (Date of Birth: October 27, 1987) is licensed in the state of Wisconsin as a cosmetologist, having license number 95756-82, first issued on June 17, 2013 and current through March 31, 2023.

2. The most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) for Respondent is 1024 Main Street, Apartment 331, Racine, Wisconsin 53403.

3. Upon information and belief, Respondent's current address is Racine County Jail, 717 Wisconsin Avenue, Racine, Wisconsin 53403, Cell Location 1EC5-1B, Booking # 2021004116.

4. On August 28, 2021, Respondent shot and killed Client A after Client A refused to pay for a haircut.

5. Respondent admitted to law enforcement, "I'm the shooter...I shot him."

6. Respondent has been charged in Racine County Circuit Court case number 21CF1370 with one (1) count of 1st degree intentional homicide, with a modifier of use of a dangerous weapon, a class A felony, in violation of Wis. Stat. § 940.01(1)(a) and Wis. Stat. § 939.63(1)(b), as well as one (1) count of possession of a firearm by someone subject to a harassment restraining order, a class G felony, in violation of Wis. Stat. § 941.29(1m)(g).

Facts Related to Default

7. On May 25, 2022, the Division served the Notice of Hearing and Complaint on the Respondent by both certified and regular mail, consistent with Wis. Admin. Code § 2.08. The Notice of Hearing advised Respondent: "If you do not provide a proper Answer within 20 days, you will be found to be in default and a default judgment may be entered against you on the basis of the Complaint and other evidence. In addition, the Board may take disciplinary action against you and impose the costs of the investigation, prosecution and other costs pursuant to Wis. Admin. Code § SPS 2.18, without further notice or hearing."

8. Respondent failed to file an Answer as required by Wis. Admin. Code § SPS 2.09(4).

9. Following expiration of the 20-day time period to file an Answer, the ALJ scheduled a telephone prehearing conference for June 30, 2022 at 1:30 p.m. Notice of the prehearing conference was sent to both parties, with instructions that Respondent provide to the ALJ a telephone number at which they could be reached no later than June 29, 2022. The Notice instructed Respondent: "The Respondent's failure to

appear at a scheduled conference or hearing may result in default judgment being entered against the Respondent.”

10. Respondent failed to provide a telephone number and could not be reached for the June 30, 2022 prehearing conference. At the time scheduled for the prehearing conference, the ALJ left a voicemail for Respondent at his telephone number on file with the Department and also sent Respondent an email requesting a return phone call. Respondent has not contacted the ALJ.

11. Based on Respondent’s failure to Answer the Notice of Hearing and Complaint and failure to appear at the June 30, 2022 prehearing conference, the Division moved for default pursuant to Wis. Admin. Code § SPS 2.14 and Wis. Admin. Code § HA 1.07(3)(c).

12. Respondent is in default for failing to appear at the telephone conference held on June 30, 2022 and for failing to file an Answer to the Complaint. Accordingly, an order may be entered against Respondent on the basis of the Complaint and other evidence. *See* Wis. Admin. Code § SPS 2.14 and Wis. Admin. Code § HA 1.07(3).

13. On July 5, 2022, the ALJ issued a Notice of Default and Order, requiring the Division to file and serve no later than August 30, 2022, a recommended Proposed Decision and Order.

14. The Division timely filed its recommended Proposed Decision and Order.

DISCUSSION

Jurisdiction

The Wisconsin Cosmetology Examining Board (Board) has jurisdiction over this matter pursuant to Wis. Stat. § 454.15. Wisconsin Stat. § 440.03(1) provides that the Department “may promulgate rules defining uniform procedures to be used by the department . . . and all examining boards and affiliated credentialing boards attached to the department or an examining board, for . . . conducting [disciplinary] hearings.” These rules are codified in Wis. Admin. Code ch. SPS 2. Pursuant to Wis. Admin. Code § SPS 2.10(2), the undersigned ALJ has authority to preside over this disciplinary proceeding in accordance with Wis. Stat. § 227.46(1).

Default

As stated in the July 5, 2022 Notice of Default and Order, Respondent is in default for failing to file an answer and failing to appear at the June 30, 2022 prehearing conference. *See* Wis. Admin. Code §§ SPS 2.09(4), SPS 2.14, and HA 1.07(3). Allegations in a complaint are deemed admitted when not denied. Wis. Admin. Code § SPS 2.09(3). Accordingly, an order may be entered against Respondent on the basis of the Complaint and other evidence. *See* Wis. Admin. Code §§ SPS 2.14 and HA 1.07(3).

Burden of Proof

The burden of proof in disciplinary proceedings before the Board is a preponderance of the evidence. Wis. Stat. § 440.20(3). By nature of a default finding, this burden is satisfied on the basis of the Complaint.¹

Violation

The Board has authority to discipline Respondent pursuant to Wis. Stat. § 454.15. Following an investigation, if the Board determines that a that a credential holder has “engaged in conduct in the practice of barbering, cosmetology, aesthetics, electrology, or manicuring that evidences a lack of knowledge or ability to apply professional principles or skills” it may “revoke, limit, suspend, or refuse to issue or renew, ...or reprimand the holder of a license or permit issued under this subchapter.” Wis. Stat. § 454.15(2)(c).

The undisputed facts establish that Respondent shot and killed a client who refused to pay for a haircut. The Division argues that his conduct evidences a lack of ability to apply professional principles or skills in the conduct of barbering or cosmetology in violation of Wis. Stat. § 454.15(2)(c). I agree.

Cosmetologists are licensed to care for the hair, skin, and nails of others. These duties necessitate a considerable amount of customer service skills and patience. Practitioners must listen to their clients and resolve disputes with clients over services rendered. The Division also points to several specific standards of professional conduct, which are inconsistent with Respondent’s behavior. For example, licensees are required to “take adequate and necessary precautions to protect the patron from health and safety hazards when performing services.” Wis. Admin. Code § Cos 2.03(5). The definition of cosmetology also requires that compensation be exchanged for services, indicating that the act of accepting payment is part of the professional principles or skills governing the practice. See Wis. Stat. § 454.01(7m). Additionally, the cosmetology profession values ethics, exemplified by the fact that a course in laws, rules, and professional ethics is in the required curriculum for cosmetology schools. Wis. Admin. Code § Cos 5.02. I agree that Respondent’s actions are inconsistent with the spirit of these rules. More importantly, using deadly force to collect payment from a customer is under no circumstances acceptable professional practice. It is clear evidence of a lack of ability to apply professional principles and skills even if it does not squarely violate a more specific standard under the Board’s administrative rules.

Therefore, Respondent is subject to discipline pursuant to Wis. Stat. § 454.15(2)(c) for engaging in conduct in the practice of barbering, cosmetology, aesthetics, electrology, or manicuring that evidences a lack of knowledge or ability to apply professional principles or skills.

Appropriate Discipline

The three purposes of discipline are: (1) to promote the rehabilitation of the credential holder; (2) to protect the public from other instances of misconduct; and (3) to deter other credential holders from engaging in similar conduct. *State v. Aldrich*, 71 Wis. 2d 206, 237 N.W.2d 689 (1976).

The Division recommends that Respondent Tamir L. Williams’ cosmetologist license be revoked. The recommended discipline is consistent with the purposes articulated in *Aldrich* and is hereby adopted.

¹ The Division submitted a copy of the criminal complaint filed against Respondent as Exhibit 1 to its recommended proposed decision and order. However, because the violations are established on the basis of the Division’s complaint alone, it was not necessary for me to rely on any additional evidence.

"Protection of the public is the purpose of requiring a license." *State ex rel. Green v. Clark*, 235 Wis. 628, 631, 294 N.W. 25 (1940). When a license is granted to an individual, Wisconsin is assuring the public that the licensed individual is competent in his or her profession. *Stringez v. Dep't of Regulation & Licensing Dentistry Examining Bd.*, 103 Wis. 2d 281, 287, 307 N.W.2d 664 (1981). It follows that if the state cannot assure the public of the licensee's competence to practice the profession, then revocation is appropriate. *Gilbert v. State Medical Examining Bd.*, 119 Wis. 2d 168, 189–90, 349 N.W.2d 68 (1984).

In this case, revocation is necessary to protect the public from harm. A cosmetologist that shoots a customer poses an unacceptable risk to customer safety and can no longer hold a license issued by the state. Cosmetology practice and skills necessitate a considerable amount of customer service ability and patience. Practitioners must listen to their clients and resolve disputes with clients over services rendered. Respondent's conduct demonstrates he does not possess the necessary skills and ethics to be licensed as a cosmetologist. Revocation is therefore appropriate.

Further, Respondent has demonstrated a lack of respect for the Board's authority. Respondent failed to cooperate throughout the Department's investigation and in this proceeding. Thus, the Board cannot assure the public of Respondent's competency or evaluate whether rehabilitative measures might be effective. Revocation will also deter other licensees from refusing to cooperate with the Board as it relates to a disciplinary matter and for serious incidents of public harm. Licensees need to know this conduct will not be tolerated.

In light of the facts of this case and the factors set forth in *Aldrich*, I find revocation of Respondent Williams' license is warranted.

Costs

The Board is vested with discretion concerning whether to assess all or part of the costs of this proceeding against Respondent. Wis. Stat. § 440.22(2). In exercising such discretion, the Board must look at aggravating and mitigating facts of the case; it may not assess costs against a licensee based solely on a "rigid rule or invocation of an omnipresent policy," such as preventing those costs from being passed on to others. *Noesen v. State Department of Regulation & Licensing, Pharmacy Examining Board*, 2008 WI App 52, ¶¶ 30-32, 311 Wis. 2d 237, 751 N.W.2d 385. In previous orders, Boards have considered the following factors when determining if all or part of the costs should be assessed against the Respondent: (1) the number of counts charged, contested and proven; (2) the nature and seriousness of the misconduct; (3) the level of discipline sought by the prosecutor; (4) the respondent's cooperation with the disciplinary process; (5) prior discipline, if any; (6) the fact that the Department is a program revenue agency, funded by other licensees; and (7) any other relevant circumstances. See *In the Matter of Disciplinary Proceedings Against Elizabeth Buenzli-Fritz*, LS0802183CHI (Aug. 14, 2008). It is within the Board's discretion as to which of these factors to consider, whether other factors should be considered, and how much weight to give any factors considered.

Considering the above factors, it is appropriate for Respondent to pay the full costs of the investigation and prosecution of these proceedings. Respondent defaulted, and the factual allegations identified in this decision were deemed admitted. Respondent shot a cosmetology customer and as such is a great threat to the public. Finally, Respondent failed to cooperate with the Board and failed to file an Answer to the Complaint or otherwise provide any argument regarding the allegations brought against his credential. As such, there exists no reason of record why Respondent should not bear assessment of full costs in this matter.

The Department is a program revenue agency whose operating costs are funded by the revenue received from credential holders. It would be unfair to impose the costs of pursuing discipline in this matter on those licensees who have not engaged in misconduct. Therefore, it is appropriate for Respondent to pay the full costs of the investigation and this proceeding, as determined pursuant to Wis. Admin. Code § SPS 2.18.

ORDER

For the reasons set forth above, IT IS ORDERED the cosmetologist license of Respondent Tamir L. Williams (license no. 95756-82), and any appurtenant right to renew or reinstate said license, is REVOKED.

IT IS FURTHER ORDERED that Respondent Tamir L. Williams pay all recoverable costs in this matter in an amount to be established, pursuant to Wis. Admin. Code § SPS 2.18.

After the amount is established, payment shall be made by certified check or money order payable to the Wisconsin Department of Safety and Professional Services and sent to the Department Monitor at:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 266-2112; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

Respondent may also submit this information online at: <https://dspsmonitoring.wi.gov/>

IT IS FURTHER ORDERED that the terms of the Order are effective on the date the Final Decision and Order in this matter is signed by the Board.

Dated at Milwaukee, Wisconsin, on September 22, 2022.

STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS
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By: Andrea Brauer
Andrea Brauer
Administrative Law Judge