

**BEFORE THE MISSOURI STATE BOARD
OF COSMETOLOGY AND BARBER EXAMINERS**

In the Matter of the Application of)
)
MIRANDA N. BERGMAN)
)
Applicant.)

**ORDER OF THE MISSOURI STATE BOARD OF COSMETOLOGY
AND BARBER EXAMINERS ISSUING A PROBATIONARY
CLASS CA HAIRDRESSING AND MANICURING LICENSE TO
MIRANDA N. BERGMAN**

The Missouri State Board of Cosmetology and Barber Examiners (the "Board") hereby issues its **ORDER** granting a **PROBATIONARY CLASS CA HAIRDRESSING AND MANICURING LICENSE**, License No. 2015028505, to Miranda N. Bergman (hereafter, "Bergman"), pursuant to the provisions of § 324.038, RSMo.¹ As set forth in § 324.038.2, RSMo, Bergman may submit a written request to the Administrative Hearing Commission seeking a hearing and review of the Board's decision to issue a probated operator license. Such written request must be filed with the Administrative Hearing Commission within 30 days of delivery or mailing of this Order of the Board. The written request should be addressed to the Administrative Hearing Commission, P.O. Box 1557, Truman State Office Building, Room 640, Jefferson City, MO 65102-1557. If no written request for review is filed with the Administrative Hearing Commission within the 30-day period, the right to seek review of the Board's decision shall be considered waived. Should Bergman file a written request for review of this Order, the terms and conditions of this Order shall remain in force and effect unless or until such time as the Administrative Hearing Commission issues an Order to the contrary.

¹ All statutory references are to Missouri Revised Statutes 2000, as amended, unless otherwise indicated.

I.

Based upon the foregoing, the Board hereby states:

FINDINGS OF FACT

1. The Board is an agency of the state of Missouri created and established pursuant to § 329.015, RSMo, for the purpose of licensing all persons engaged in the practice of barbering and cosmetology in this state. The Board has control and supervision of the licensed occupations and enforcement of the terms and provisions of Chapters 328 and 329, RSMo.

2. Bergman currently resides at 891 Roosevelt, Hawk Point, Missouri.

3. On or about April 6, 2015, Bergman applied for a class CA hairdressing and manicuring license. On her application Bergman answered “yes” to the question regarding criminal history.

4. A review of Bergman’s criminal history reveals that:

a. On or about April 22, 2009, Bergman pled guilty to the class C misdemeanor of Exceeded Posted Speed Limit (Exceeded By 16 – 19 Mph), in the Pike County, Missouri, case number 071040391.

The Court sentenced Bergman to a fine, plus court costs and ordered the attendance of defensive driving school

b. On or about August 10, 2010, Bergman pled guilty to the class C misdemeanor of Car/Motorcycle/Truck Under 18000 Lbs Followed Another Vehicle Too Closely, in the Circuit Court of Lincoln County, Missouri, case number 080248322. The Court sentenced Bergman to a fine and the payment of court costs.

- c. On or about November 13, 2012, Bergman pled guilty to the unclassified misdemeanor Driving While Revoked/Suspended – 1st Offence, in the Circuit Court of Warren, Missouri, case number 12BB-CR00866. The Court fined Bergman;
- d. On or about June 26, 2013, Bergman pled guilty to the class B misdemeanor of Dwi – Alcohol, the Class A misdemeanor Endangering the Welfare of a Child – 2nd Degree and the unclassified misdemeanor of Driving While Revoked/Suspended – 1st Offense, in the Circuit Court of Lincoln County, Missouri, case number 12L6-CR01277. The Court sentenced Bergman to 180 days in the Lincoln County Jail, suspended execution of sentence and 2 years’ supervised probation.
- e. Bergman also had guilty pleas recorded for various ordinance violations and infractions.

5. Bergman provided a written statement regarding her criminal history, in which she stated that in three years ago her life wasn’t on track and she was “in a downward spiral.” She stated that she has since gone to an alcohol treatment facility. Bergman noted that she makes no excuses for her actions and characterized her actions as “pure stupidity.” She stated that she believes she has turned her life around and is ready to start her career in cosmetology. She asserted that she has had no incidents since being placed on probation and that her probation ends in June 2015. Regarding the charge of endangering the welfare of a child, Bergman stated that her best friend was with her at the time of her DWI stop and that her friend was sixteen years old at the time of the stop.

II.

CONCLUSIONS OF LAW

6. The Board has authority to deny or refuse a license application pursuant to § 329.140.1, RSMo, which provides:

The board may refuse to issue any certificate of registration or authority, permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

7. The Board has cause to deny or refuse Bergman's application for a cosmetology license pursuant to § 329.140.2, RSMo, which provides:

The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered the person's certificate of registration or authority, permit or license for any one or any combination of the following causes:

...

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

8. As a result of Bergman's conduct as stated in paragraph 4 a – e above, the Board has cause to deny or refuse Bergman's application for a cosmetology license pursuant to §§ 329.140.1 and 329.140.2(2), RSMo, for which the Board has cause to deny Bergman's application for a class CA hairdressing and manicuring license.

9. As an alternative to refusing to issue a license, the Board may, at its discretion, issue a license subject to probation, pursuant to § 324.038.1, RSMo, which provides:

Whenever a board within or assigned to the division of professional registration, including the division itself when so empowered, may refuse to issue a license for reasons which also serve as a basis for filing a complaint with the administrative hearing commission seeking disciplinary action against a holder of a license, the board, as an alternative to refusing to issue a license, may, at its discretion, issue to an applicant a license subject to probation.

10. The Board issues this Order in lieu of denial of Bergman's application for a class CA hairdressing and manicuring license. The Board has determined that this Order is necessary to ensure the protection of the public.

III.

ORDER

11. Based on the foregoing, Miranda N. Bergman is granted a class CA hairdressing and manicuring license, which is hereby placed on **PROBATION** for a period two (2) years, subject to the terms and conditions set forth below.

IV.

TERMS AND CONDITIONS

12. During the aforementioned probation, Bergman shall be entitled to a Class CA hairdressing and manicuring license subject to the following terms and conditions:

- A. During the disciplinary period, Bergman shall comply with all provisions of Chapter 329, RSMo, all applicable board regulations, all applicable federal and state drug laws, rules and regulations and all applicable federal and state criminal laws. "State" includes the state of Missouri, all other states and territories of the United States, and the ordinances of their political subdivisions.
- B. During the disciplinary period, Bergman shall keep the Board informed of her current work and home telephone numbers. Bergman shall notify the Board in writing within ten days (10) of any change in this information.

- C. During the probationary period, Bergman shall timely renew her class CA hairdressing and manicuring license granted hereby and shall timely pay all fees required for licensure and comply with all other Board requirements necessary to maintain said license in a current and active state.
- D. During the probationary period, Bergman shall accept and comply with unannounced visits from the Board's representatives to monitor compliance with the terms and conditions of this Order.
- E. During the disciplinary period, Bergman shall appear in person for interviews with the Board or its designee upon request.
- F. Bergman shall submit written reports to the Board on or before January 1 and July 1 during each year of the probationary period stating truthfully whether there has been compliance with all terms and conditions of this Order. The first such report shall be received by the Board on or before January 1, 2016.
- G. If, at any time during the probationary period, Bergman changes her address from the state of Missouri, or ceases to maintain her class CA hairdressing and manicuring license current or active under the provisions of Chapter 329, RSMo, or fails to keep the Board advised of all current places of residence, the time of such absence, unlicensed or inactive status, or unknown whereabouts shall not be deemed or taken to satisfy any part of the probationary period.
- H. The Board retains jurisdiction to hold a hearing at any time to determine if a violation of this Order has occurred and, if a violation of this Order has occurred, may seek to amend this Order or impose further disciplinary or appropriate action at the discretion of the Board. No order shall be entered by the Board pursuant to this paragraph without any required notice and opportunity for a hearing before the Board as provided by Chapter 536, RSMo.
- I. Unless otherwise specified by the Board, all reports, documentation, notices, or other materials required to be submitted to the Board shall be forwarded to: Missouri State Board of Cosmetology and Barber Examiners, P.O. Box 1062, Jefferson City, Missouri 65102.
- J. Any failure by Bergman to comply with any condition of discipline set forth herein constitutes a violation of this Order.

13. This Order does not bind the Board or restrict the remedies available to it concerning any violation by Bergman of the terms and conditions of this Order, Chapters 324 and 329, RSMo, or the regulations promulgated thereunder.

14. The Board will maintain this Order as an open, public record of the Board as provided in Chapters 329, 610 and 324, RSMo.

SO ORDERED, EFFECTIVE THIS 11th DAY OF AUGUST, 2015.

MISSOURI STATE BOARD OF COSMETOLOGY
AND BARBER EXAMINERS

Handwritten signature of Emily R. Carroll in cursive script.

Emily R. Carroll, Executive Director