



I.

**FINDINGS OF FACT**

1. The Board is an agency of the state of Missouri created and established pursuant to § 329.015, RSMo,<sup>1</sup> 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. On or about August 2, 2016, Brown applied for a cosmetology student license to enroll at Vandalia Institute of Cosmetology, 1101 East Highway 54, Vandalia, Missouri.

3. On her application, Brown answered “yes” to the question “Have you been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution in this state or of the United States, whether or not sentence was imposed?”

4. With her application, Brown provided a statement regarding her criminal background. She stated that she has “a rather lengthy criminal history.” She stated that it is all alcohol related and she received her first DWI in 1990. She stated she had several DWIs and an alcohol related shop-lifting charge in approximately 2008. She stated she did not receive any charges during a period of sobriety from 1998-2003. She stated her latest DWIs occurred in 2012 and 2014. She stated she had violations of probation over “dirty drug tests and careless behaviors.”

5. A review of Brown’s criminal history reveals that:

- a. On or about October 26, 2012, Brown pled guilty to the class C felony of DWI – Combined Alcohol/Drug Intoxication – Aggravated Offender in the Circuit Court of Christian County, Missouri, case number 12CT-CR01647-01. The Court

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

sentenced Brown (aka Wilson) to seven years' incarceration but suspended the execution of sentence and ordered Brown to be placed in an institutional treatment program and released onto five years' supervised probation. On September 19, 2014, the Court revoked Brown's probation and executed the incarceration sentence and ordered long term substance abuse treatment.

- b. On or about October 30, 2012, Brown pled guilty to the class A misdemeanor of Domestic Assault – 3<sup>rd</sup> Degree in the Circuit Court of Christian County, Missouri, case number 12CT-CR01621. The Court sentenced Brown to 30 days in jail.
- c. On or about July 10, 2014 and September 19, 2014, Brown pled guilty to: 1) the class B felony of DWI – Chronic Offender; 2) the unclassified misdemeanor of Failed to Dim Lights When Within 500 Ft of Oncoming Vehicle/300 Ft of Rear of Vehicle; and 3) the unclassified misdemeanor of Owner Operating Without Maintaining Financial Responsibility in the Circuit Court of Christian County, Missouri, case number 14CT-CR00694-01. The Court sentenced Brown to eight years' incarceration and long term treatment on the DWI charge and a total of \$20 in fines for the two unclassified misdemeanors.

## 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 his 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 Brown's application for a cosmetology student 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 Brown's actions as set forth in paragraphs 2 through 5 above, the Board has cause to deny or refuse Brown's application for a cosmetology student license pursuant to § 329.140.1, RSMo, and § 329.140.2(2), RSMo.

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, 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 Brown's application for a cosmetology student license. The Board has determined that this Order is necessary to ensure the protection of the public.

III.

## ORDER

11. Based on the foregoing, Kimberly A. Brown is granted a cosmetology **student license**, which is hereby placed on **PROBATION** for the period during which he is enrolled in cosmetology school and receiving training hours, not to exceed five (5) years from the effective date of this Order. During the aforementioned probation, Kimberly A. Brown shall be entitled to enroll as a cosmetology student subject to the following terms and conditions.

### IV.

#### TERMS AND CONDITIONS

12. During the aforementioned probation, Kimberly A. Brown, shall be entitled to enroll as a cosmetology student subject to the following terms and conditions:

- A. During the disciplinary period, Applicant 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, Applicant shall keep the Board informed of Applicant's current work and home telephone numbers. Applicant shall notify the Board in writing within ten days (10) of any change in this information.
- C. During the probationary period, Applicant shall accept and comply with unannounced visits from the Board's representatives to monitor compliance with the terms and conditions of this Order.
- D. During the disciplinary period, Applicant shall appear in person for interviews with the Board or its designee upon request.
- E. Applicant 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, 2017.
- F. If, at any time during the probationary period, Applicant changes Applicant's address from the state of Missouri, or ceases to maintain Applicant's cosmetology student 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.

- G. 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.
- H. 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.
- I. Any failure by Applicant 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 Applicant of the terms and conditions of this Order, Chapter 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 11<sup>th</sup> DAY OF AUGUST, 2016.**

MISSOURI STATE BOARD OF COSMETOLOGY  
AND BARBER EXAMINERS

*Emily R. Carroll*

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Emily R. Carroll, Executive Director