

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. Do currently resides at 203 Lincoln Street, Scott City, Missouri.
3. On or about June 27, 2016, Do applied by reciprocity for a “Class CA – hairdressing and manicuring” license.
4. On or about July 12, 2016, Do was notified that her application for reciprocity could not be processed due to its incomplete status. The provided notification warned Do that engaging in the practice of cosmetology without a license issued by the Board would be a violation of section 329.030, RSMo.
5. On or about July 13, 2016, the Board’s inspector conducted a routine inspection of Golden Nail & Spa, located at 1430 N. Kingshighway, Cape Girardeau, MO 63701. Do was present and performing services without a state license.
6. On or about August 24, 2016, the Board’s inspector conducted a follow-up inspection of Golden Nail & Spa, located at 1430 N. Kingshighway, Cape Girardeau, MO 63701. Do was present and performing services without a state license.
7. On or about August 26, 2016, information was provided to the Board which allowed the Board to process Do’s reciprocity application.

II.

CONCLUSIONS OF LAW

8. Section 329.030, RSMo, states:

It is unlawful for any person in this state to engage in the occupation of cosmetology or to operate an establishment or school of cosmetology, unless such person has first obtained a license as provided by this chapter.

9. 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.

10. The Board has cause to deny or refuse Do's application for a "Class CA – hairdressing and manicuring" 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:

...

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by this chapter granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

11. As a result of Do's conduct as stated in paragraph 3 through 6 above, the Board has cause to deny or refuse Do's application for a "Class CA – hairdressing and manicuring" license pursuant to §§ 329.140.1 and 329.140.2(8), RSMo.

12. 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.

13. The Board issues this Order in lieu of denial of Do'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

14. Based on the foregoing, Helen Do is granted a "Class CA – hairdressing and manicuring" license, which is hereby placed on **PROBATION** for a period five (5) years, subject to the terms and conditions set forth below.

IV.

TERMS AND CONDITIONS

15. During the aforementioned probation, Do shall be entitled to a "Class CA – hairdressing and manicuring" license subject to the following terms and conditions:

- A. During the disciplinary period, Do 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, Do shall keep the Board informed of her current work and home telephone numbers. Do shall notify the Board in writing within ten days (10) of any change in this information.
- C. During the probationary period, Do 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, Do 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, Do shall appear in person for interviews with the Board or its designee upon request.
- F. Do 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.
- G. If, at any time during the probationary period, Do 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 Do to comply with any condition of discipline set forth herein constitutes a violation of this Order.

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

17. 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 1st DAY OF NOVEMBER, 2016.

MISSOURI STATE BOARD OF COSMETOLOGY
AND BARBER EXAMINERS



Emily R. Carroll, Executive Director