

FINDINGS OF FACT

1. The Board is an agency of the state of Missouri created and established pursuant to § 329.015, RSMo,¹ 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 November 12, 2013, Danielle J. Gelkie applied for a cosmetology student license to enroll at Vandalia Institute of Cosmetology, 1101 E. Highway 54, Vandalia, Missouri.

3. On her application, Applicant answered “yes” to the question “Have you been 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, Gelkie provided a statement regarding her answer of “yes” to the question regarding criminal history. She stated that she was having difficulties with her sister’s significant other, a huge fight broke out and she stabbed in once in the back in a fit of rage.

5. Gelkie further stated that on or about January 10, 2008, she was rudely awakened by her sister’s boyfriend and an argument ensued between Gelkie, her sister and her sister’s boyfriend. She stated there was yelling and her sister’s boyfriend was kicking things and broke a picture frame. She stated the argument continued but she was trying to pack her things and leave. She stated that her sister stated “I can’t wait until you’re dead.” Gelkie stated she went into the kitchen, picked up the first knife she found and returned to her room where her sister

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

was. Gelkie stated she said to her sister that if she wanted Gelkie dead so badly she could kill her and “get it over with.” Gelkie stated she threatened to do it herself but her sister’s boyfriend interfered and took some of her things to another room. He was calling her names and using profanity directed towards her. She stated she was “so angry and upset I felt rage inside of me and I went to punch him in his back and in the heat of the moment my straight forward punch with the knife in my hand, as he turned the corner, I instead swung my arm towards the left and hit him dead straight in the back.” She stated she realized what she did and apologized to him. She stated she helped apply pressure with a towel until the paramedics arrived. She stated she regrets what she did and understands she deserves to be punished.

6. On or about February 27, 2004, Gelkie pled guilty to the class C felony of Tampering with Motor Vehicle, Airplane, Motor Boat, etc., in the first degree in the Circuit Court of St. Louis County, Missouri, case number 2103R-04041-01. On or about June 22, 2006, the Court sentenced Gelkie to nine months in jail.

7. On or about January 29, 2009, Gelkie pled guilty to the class A felony of assault in the first degree, serious physical injury, and the unclassified misdemeanor of armed criminal action, in the Circuit Court of St. Louis County, Missouri, case number 08SL-CR00129-01. The Court sentenced Gelkie to ten years’ incarceration on the assault charge and three years’ incarceration on the armed criminal action charge to run concurrently.

II.

CONCLUSIONS OF LAW

8. 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.

9. The Board has cause to deny or refuse Gelkie'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[.]

10. As a result of Gelkie's actions as set forth in paragraphs 3 through 7 above, the Board has cause to deny or refuse Gelkie's application for a cosmetology student license pursuant to § 329.140.1, RSMo, and § 329.140.2(2), RSMo.

11. 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.

12. The Board issues this Order in lieu of denial of Gelkie'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

13. Based on the foregoing, Danielle J. Gelkie is granted a cosmetology student license, which is hereby placed on **PROBATION** for the period during which she 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, Danielle J. Gelkie shall be entitled to enroll as a cosmetology student subject to the following terms and conditions.

IV.

TERMS AND CONDITIONS

14. During the aforementioned probation, Danielle J. Gelkie 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 timely renew Applicant's student 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, Applicant 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, Applicant shall appear in person for interviews with the Board or its designee upon request.
- F. 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 July 1, 2014.
- G. 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.
- 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 Applicant to comply with any condition of discipline set forth herein constitutes a violation of this Order.

15. 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.

16. 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 20th DAY OF DECEMBER, 2013.

MISSOURI STATE BOARD OF COSMETOLOGY
AND BARBER EXAMINERS

Handwritten signature of Emily Carroll in cursive script.

Emily Carroll, Executive Director