

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

In the Matter of the Application of)
)
JAMES L. HOFF)
)
Applicant.)

**ORDER OF THE MISSOURI STATE BOARD OF COSMETOLOGY
AND BARBER EXAMINERS ISSUING A PROBATIONARY
CLASS CA COSMETOLOGY OPERATOR LICENSE TO
JAMES L. HOFF**

The Missouri State Board of Cosmetology and Barber Examiners (the "Board") hereby issues its **ORDER** granting a **PROBATIONARY CLASS CA COSMETOLOGY OPERATOR LICENSE**, License No. 2014021029, to James L. Hoff (hereafter, Hoff), pursuant to the provisions of § 324.038, RSMo.¹ As set forth in § 324.038.2, RSMo, Hoff 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 Hoff 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. Hoff currently resides at Post Office Box 11, Pilot Knob, Missouri.

3. On or about May 6, 2014, Hoff applied by reciprocity for a Class CA cosmetology operator license.

4. Hoff holds a Nebraska Cosmetologist operator license, license number 43546. The Nebraska Department of Health & Human Services, Division of Public Health (Nebraska DPH) issued Hoff's Nebraska license on or about September 24, 2002. Hoff's Nebraska license expires December 31, 2014.

5. On or about July 1, 2009, the Nebraska DPH placed Licensee's Nebraska Cosmetologist license on five years' probation "as a result of a criminal conviction history involving alcohol abuse" including three convictions for driving under the influence, minor in possession, open container and driving under suspension. The Nebraska DPH ordered Licensee to submit to random body fluid alcohol screens at his own expense, attend weekly AA meetings, provide employer reports to the Nebraska DPH and follow all recommendations of a Substance Abuse Evaluation. On or about October 12, 2011, the Nebraska DPH revoked Licensee's Nebraska license as a result of Licensee's failure to complete the requirements of his probation.

Licensee failed to pay the costs of body fluid screens, failed to attend the required number of AA meetings and provide proof of attendance at those meets and failed to cause all employer reports to be submitted to the Nebraska DPH in a timely manner. On or about March 12, 2014, Licensee applied for reinstatement of his Nebraska license. The Nebraska DPH reinstated Licensee's Nebraska license on April 30, 2014.

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 Hoff's application for a cosmetology operator 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[.]

8. As a result of Hoff's conduct as stated in paragraphs 3 through 5 above, the Board has cause to deny or refuse Hoff's application for a cosmetology operator license pursuant to §§ 329.140.1 and 329.140.2(8), RSMo, in that Hoff was disciplined by the Nebraska DPH as detailed in paragraph 5 above, for which the Board has cause to deny Hoff's application for a Class CA cosmetology operator 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 Hoff's application for a Class CA cosmetology operator license. The Board has determined that this Order is necessary to ensure the protection of the public.

III.

ORDER

11. Based on the foregoing, James L. Hoff is granted a Class CA cosmetology operator 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

12. During the aforementioned probation, Hoff shall be entitled to a class CA cosmetology operator license subject to the following terms and conditions:

- A. During the disciplinary period, Hoff 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, Hoff shall keep the Board informed of his current work and home telephone numbers. Hoff shall notify the Board in writing within ten days (10) of any change in this information.
- C. During the probationary period, Hoff shall timely renew his class CA cosmetology operator 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, Hoff 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, Hoff shall appear in person for interviews with the Board or its designee upon request.
- F. Hoff 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, 2015.
- G. If, at any time during the probationary period, Hoff changes his address from the state of Missouri, or ceases to maintain his class CA cosmetology operator 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 Hoff 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 Respondent 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 26 DAY OF JUNE, 2014.

MISSOURI STATE BOARD OF COSMETOLOGY
AND BARBER EXAMINERS

A handwritten signature in cursive script that reads "Emily R. Carroll". The signature is written in black ink and is positioned above a horizontal line.

Emily R. Carroll, Executive Director