

I.

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. On or about January 2, 2015, Martin applied for a Missouri cosmetology student license to enroll at Chillicothe Beauty Academy, 505 Elm, Chillicothe, Missouri.

3. On her application, Martin 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 any or of the United States, whether or not sentence was imposed?”

4. In conjunction with her January 2, 2015 application, Martin provided an explanation of her criminal history. In her explanation, Martin stated that in March of 2012, she was pulled over in Saline County and found to be in possession of a controlled substance. She stated that she was sentenced to 10 years’ incarceration. Martin noted that she has been paroled and sees her Parole Officer, Cindy Turner, every other month.

5. A review of Martin’s criminal history reveals:

- a. On or about July 8, 2004, Martin pled guilty to the class A misdemeanor of Assault 3rd Degree-Pursuant To Subdivisions(1), (2), (4), (6), in the Circuit Court of Linn County, Missouri, case number 04LI-CR00227. The Court sentenced Martin to 90 days incarceration with her sentence to run concurrent with case number 02CR112336.

- b. On or about March 13, 2006, Martin pled guilty to the class C felony of Burglary-2nd Degree, in the Circuit Court of Linn County, Missouri, case number 05LI-CR00588-01. The Court sentenced Martin to three years' incarceration in the Department of Corrections. The Court suspended execution of sentence and placed Martin on five years' supervised probation. The Court revoked Martin's probation on November 13, 2006, and the sentence of three years' incarceration was imposed.
- c. On or about March 13, 2006, Martin pled guilty to the class A misdemeanors of Assault/Attempt Assault-L/E, C/O, E/P, Hwy Wkr In Construction/Wrk Zone, Utility Wrkr Or P&P-Physical Contact-3d Deg and Resisting/Interfering With Arrest, Detention Or Stop, in the Circuit Court of Linn County, Missouri, case number 06LI-CR00096. The Court sentenced Martin to thirty days incarceration in jail on each count to run concurrently.
- d. On or about October 10, 2006, Martin pled guilty to the class C felony of Tampering With A Motor Vehicle-1st Degree, in the Circuit Court of Linn County, Missouri, case number 06LI-CR00161-01. The Court sentenced Martin to three years' incarceration in the Department of Corrections to run concurrently with case number 05LI-CR00588-01.
- e. On or about February 21, 2008, Martin pled guilty to the class D felony of Hindering Prosecution Of Felony, in the Circuit Court of Linn County, Missouri, case number 07LI-CR00413-01. The Court sentenced Martin to two years' incarceration with the Department of Corrections to run concurrently with case number 05LI-CR00588-01.
- f. On or about June 11, 2006, Martin pled guilty to the class C felony of

Possession Of Controlled Substance Except 35 Grams Or Less Of Marijuana,
in the Circuit of Saline County, Missouri, case number 12SA-CR00133-01.

The Court sentenced Martin to ten years' incarceration with the
Department of Corrections.

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 Martin'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 Martin's guilty pleas as detailed in paragraph 5a through 5f, the Board has cause to deny or refuse Martin'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 Martin'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, Melissa Ann Martin 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, Melissa Ann Martin 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, Melissa Ann Martin, 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, 2016.
- 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 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 21ST DAY OF JULY, 2015

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