

I.

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 13, 2012, Murray applied for a cosmetology student license to enroll at Vandalia School of Cosmetology, 1101 E. Highway 54, Vandalia, Missouri. On her application, Murray answered “yes” to the question “In the last ten (10) years have you been adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of this state or any other state or of the United States, whether or not sentence was imposed?”

3. With her October 26, 2012 application, Murray included a statement regarding her answer of “yes” to the question regarding criminal history. Murray stated “In 1998 I was convicted of 2 counts 2nd degree burglary and 1 count stealing. I received 5 years probation with an SIS. In 2001 I violated my probation during the commission of a crime of 1st degree assault and was sentenced to prison for five years on each count to be ran concurrent. Later that year (2001) I was sentenced to 15 years for 1st degree assault to be ran concurrent with my previous sentences. I now am down to less than 5 years on my sentence having already served over 10 years. I would greatly appreciate a chance to earn my cosmetology license.”

4. On or about November 19, 2012, the Board requested court documents regarding her statement.

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

5. On or about December 3, 2012, the Board received copies of documentation from the Department of Corrections regarding Murray's convictions and sentences as well as a copy of the transcript from Murray's February 27, 2002 plea hearing before the Circuit Court of Clark County, Missouri for the assault in the first degree charge.

6. The records reveal that on February 8, 1998, Murray was arrested and charged with one count of the class C felony of burglary in the second degree in the Circuit Court of Adair County Missouri, and on February 15, 1998, Murray was arrested and charged with one count of the class C felony of burglary in the second degree and one count of the class C felony of stealing in the Circuit Court of Knox County, Missouri. Murray pled guilty to all three counts and the Courts suspended the imposition of sentence and placed Murray on five years probation. On or about June 10, 2001, Murray was arrested for and charged with assault in the first degree – serious injury, a class A felony in the Circuit Court of Schuyler County, Missouri. As a result of violating her probation in the 1998 cases, on January 4, 2002 the Circuit Court of Knox County sentenced Murray to five years incarceration in Missouri Department of Corrections for each count, to be served concurrently and on March 12, 2002, the Circuit Court of Adair County also sentenced Murray to five years incarceration in the Missouri Department of Corrections. Finally, on her about February 27, 2002, Murray pled guilty to the class A felony of assault in the first degree – serious physical injury in the Circuit Court of Schulyer County, Missouri. The Court sentenced Murray to fifteen years incarceration in the Missouri Department of Corrections.

7. On or about December 3, 2012, Murray also provided an additional statement to the Board regarding her convictions. Murray stated that regarding the 1998 convictions for burglary and stealing, "there is no excuse or reason. I was 19 years old when a friend of mine and I broke into some places. We were caught and charged as we should have been." She stated

that in 2001, she was on probation and working construction. She stated she left her five year old son at a friend's house. She stated that a week later, as a result of a crime committed against her son, she and another friend shot the perpetrator of the crime against her son. She stated she did not pulled the trigger but "I take 100% of the responsibility for the crime." She stated that in 2010 she testified against the individual who perpetrated the crime against her son and he was sentenced to four life sentences plus ten years. She stated that she is not a bad person but did make mistakes in her past. She stated that she has taken college courses since she was incarcerated in 2001 and will be graduating on December 5, 2012 from a business management certification program. She stated she did over 500 hours of community services while incarcerated. She stated "I am not the person I was 11 years ago. Since my incarceration, I have become a much better person and I am prepared to re-enter society. I ask that you please give me a chance."

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 Murray'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 Murray's actions as set forth in paragraphs 2 through 7 above, the Board has cause to deny or refuse Murray'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 Murray'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, Rae A. Murray 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, Rae A. Murray 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, Rae A. Murray, 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, 2013.
- 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.

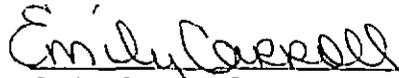
- H. The Board retains jurisdiction to hold a hearing at any time to determine if a violation of this Order has occurred and, if a violation of this Order has occurred, may seek to amend this Order or impose further disciplinary or appropriate action at the discretion of the Board. No order shall be 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 25 DAY OF FEBRUARY, 2013.

MISSOURI STATE BOARD OF COSMETOLOGY
AND BARBER EXAMINERS



Emily Carroll, Executive Director