

BEFORE THE MISSOURI STATE BOARD
OF COSMETOLOGY AND BARBER EXAMINERS

In the Matter of the Application of)
)
G.L. BLANKINSHIP,)
d/b/a NEW DIMENSION BEAUTY SCHOOL,)
3123 Prospect Ave.,)
Kansas City, MO 64128)
)
Applicant.)

ORDER OF THE MISSOURI STATE BOARD OF COSMETOLOGY
AND BARBER EXAMINERS ISSUING A
PROBATIONARY COSMETOLOGY SCHOOL LICENSE TO
G.L. BLANKINSHIP D/B/A NEW DIMENSION BEAUTY SCHOOL

The Missouri State Board of Cosmetology and Barber Examiners (the "Board") hereby issues its ORDER granting a PROBATIONARY COSMETOLOGY SCHOOL LICENSE, License No. 2012000998, to G.L. Blankinship d/b/a New Dimension Beauty School ("Blankinship"), pursuant to the provisions of § 324.038, RSMo.¹ As set forth in § 324.038.2, RSMo, Blankinship may submit a written request to the Administrative Hearing Commission seeking a hearing and review of the Board's decision to issue a probated cosmetology school 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 Order shall be considered waived. Should Blankinship file a written request for review of this Order, the terms and conditions of this Order shall remain in force and effect

unless and/or until such time as the Administrative Hearing Commission issues an Order to the contrary.

Based upon the foregoing, the Board hereby states:

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, establishments and schools 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 3, 2011, G.L. Blankinship d/b/a New Dimension Beauty School filed an Application to Open a School of Cosmetology with the Board for a school to be located at 3123 Prospect Avenue, Kansas City, Missouri 64128 ("Blankinship's new school"). G.L. Blankinship is the owner and operator of this new school.

3. G.L. Blankinship was licensed for a cosmetology school, also named New Dimension Beauty School, license number SC000233, located at 1905 Vine Street, Kansas City, Missouri 64108 ("Blankinship's prior school"). G.L. Blankinship was the owner and operator of this prior school. Based on information and belief, this prior school closed on or about January 5, 2012. Blankinship's prior school license was at all relevant times current and active.

4. On or about January 5, 2012, the Board conducted an inspection of Blankinship's new school and the inspector noted violations during such inspection including that a shampoo bowl was dirty and did not work, two of ten dryers did not function and seven of 16 dresserette

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

chairs were dirty, damaged or in need of repair or replacement in violation of 20 CSR 2085-11.020 and 20 CSR 2085-12.040.

5. On or about January 9, 2012, the Board conducted a follow-up inspection of Blankinship's new school and the inspector noted no violations during such inspection.

6. Prior to Blankinship's application for his new school, the Board conducted inspections of Blankinship's prior school while the school was open and offering training classes and the inspector noted violations during such inspections including:

- a. During the May 19, 2010 inspection, the Board's inspector noted that:
 - i. The student's clean tools were not kept in a closed container and the floors, walls ceilings, equipment and contents of the school were not clean and in good repair in violation of 20 CSR 2085-11.020;
 - ii. Minimum equipment and training supplies were not on hand and in good condition in violation of 20 CSR 2085-12.040;
 - iii. Each student did not have an individual student kit in violation of 20 CSR 2085-12.010;
 - iv. Soiled towels were not in a closable, leak-proof container in violation of 20 CSR 2085-11.020;
 - v. Students who were no longer attending were not properly terminated in violation of 20 CSR 2085-12.010; and
 - vi. Instructor's license was not conspicuously displayed in violation of 20 CSR 2085-12.010.

- vii. On June 4, 2010, the Board sent a violation notice Blankinship regarding these violations and requesting that Blankinship provide the Board with a written plan to rectify the delineated violations.
- b. During the July 14, 2010 inspection, the Board's inspector noted that:
 - i. Clean tools were not stored in a closed container, implements and instruments were not cleaned after each use, shampoo bowls were not clean, walls and ceiling showed signs of water damage and were not clean and in good repair, four workstations had mirrors that were cracked and not in good repair and workstations were not free of unsanitized implements in violation of 20 CSR 2085-11.020;
 - ii. Each student did not have an individual student kit in violation of 20 CSR 2085-12.010;
 - iii. Restrooms were not clean and sanitary in violation of 20 CSR 2085-12.040;
 - iv. Soiled towels were not in a closable, leak-proof container in violation of 20 CSR 2085-11.020; and
 - v. Rancid stench was present in implement storage room.
- vi. On August 23, 2010, the Board sent a violation notice Blankinship regarding these violations and requesting that Blankinship provide the Board with a written plan to rectify the delineated violations.
- vii. On August 27, 2010, Blankinship provided a written response to the Board regarding the violations found during the July 14, 2010 inspection.

- viii. On January 14, 2011, the Board's legal counsel sent Blankinship a letter regarding the May 19, 2010 and July 14, 2010 inspection violations, the respective June 4, 2010 and August 23, 2010 violation notices and directing Blankinship to immediately remedy such violations or discipline may be initiated against his license.
 - ix. On or about January 31, 2011, Blankinship submitted a written response to the Board's January 14, 2011 letter. In the response, Blankinship set out corrections that have been made and issues that he would like to discuss with the Board.
- c. During the September 23, 2010 inspection, the Board's inspector noted that:
- i. Blankinship failed to post the school license in plain view in violation of § 329.040 and 20 CSR 2085-12.010;
 - ii. The student's clean tools were not kept in a closed container and the floors, walls ceilings, equipment and contents of the school were not clean and in good repair in violation of 20 CSR 2085-11.020;
 - iii. Minimum equipment and training supplies were not on hand and in good condition in violation of 20 CSR 2085-12.040;
 - iv. Student licenses were not conspicuously displayed with a photo and each student did not have an individual kit, nor were students who were no longer attending the school properly terminated, each in violation of 20 CSR 2085-12.010; and
 - v. Spider webs were found, spiders were present in the school, a rotten stench was present in the school building, mirrors at the student

stations were broken, ceilings were cracked and showed water damage, and clean implements were stored in open baskets covered with a blue tarp on the floor.

- vi. On October 3, 2010, the Board sent a violation notice to Blankinship regarding these violations and requesting that Blankinship respond within 10 days with a plan to rectify the delineated violations.
 - vii. On or about October 11, 2010, Blankinship provided a plan to the Board providing explanation of the violations, efforts to rectify the violations and admissions that the students were not provided individual kits as required.
- d. During the December 17, 2010 inspection, the Board inspector noted that:
- i. The student's clean tools were not kept in a closed container and the floors, walls ceilings, equipment and contents of the school were not clean and in good repair in violation of 20 CSR 2085-11.020;
 - ii. Minimum equipment and training supplies were not on hand and in good condition in violation of 20 CSR 2085-12.040;
 - iii. Each student did not have an individual student kit in violation of 20 CSR 2085-12.010; and
 - iv. Ceiling tiles and walls showed stains from water damage, rancid smell was present in implement storage room and five student workstations had broken mirrors.

- v. On January 10, 2011, the Board sent a violation notice Blankinship regarding these violations and requesting that Blankinship provide the Board with a written plan to rectify the delineated violations.
- c. During the February 16, 2011 inspection, the Board inspector noted that:
 - i. The floors, walls, ceilings, equipment and contents of the school were not clean and in good repair in violation of 20 CSR 2085-11.020;
 - ii. Minimum equipment and training supplies were not on hand and in good working condition in violation of 20 CSR 2085-12.040;
 - iii. Each student did not have an individual student kit in violation of 20 CSR 2085-12.010; and
 - iv. The stairs leading up to the school were in poor condition, were dirty and had loose tape on them presenting a hazard at the top of the stairs, ceiling tiles and walls showed stains from water damage and four student workstations had cracked or broken mirrors.
 - v. On March 1, 2011, the Board sent a violation notice Blankinship regarding these violations and requesting that Blankinship provide the Board with a written plan to rectify the delineated violations.
- f. During the April 21, 2011 inspection, the Board inspector noted that:
 - i. The floors, walls, ceilings, equipment and contents of the school were not clean and in good repair in violation of 20 CSR 2085-11.020;
 - ii. Students who were no longer attending were not properly terminated in violation of 20 CSR 2085-12.010; and

- iii. The ceiling tiles and walls showed stains from water damage, the carpet was dirty and in need of repair, five styling chairs were torn and in need of repair, and an individual teaching during the inspection was not licensed as an instructor and instead held only a temporary student permit cosmetology instructor's license and was not operating under the supervision of a licensed instructor.
 - iv. On May 18, 2011, the Board sent a violation notice Blankinship regarding these violations and requesting that Blankinship provide the Board with a written plan to rectify the delineated violations.
- g. During the June 9, 2011 inspection, the Board inspector noted that:
- i. The student's tools after use were placed in a closed container with clean tools and the floors, walls ceilings, equipment and contents of the school were not clean and in good repair in violation of 20 CSR 2085-11.020;
 - ii. The floors, walls, ceilings, equipment and contents of the school were not clean and in good repair in violation of 20 CSR 2085-11.020;
 - iii. Students who were no longer attending were not properly terminated in violation of 20 CSR 2085-12.010; and
 - iv. Carpets were in need of cleaning or replacement, one mirror was cracked and in need of repair or replacement and drywall was cracked and falling from interior walls from apparent water damage.

- v. On June 29, 2011, the Board sent a violation notice Blankinship regarding these violations and requesting that Blankinship provide the Board with a written plan to rectify the delineated violations.
- h. During the August 18, 2011 inspection, the Board inspector noted that:
 - i. The floors, walls, ceilings, equipment and contents of the school were not clean and in good repair in violation of 20 CSR 2085-11.020;
 - ii. Student licenses were not conspicuously displayed with a photo nor were students who were no longer attending the school properly terminated, each in violation of 20 CSR 2085-12.010; and
 - iii. The ceiling tiles and walls showed stains from water damage, the carpet was dirty and in need of repair, four styling chairs and seven waiting area chairs were torn and in need of repair and student work stations had cracked or broken mirrors.
 - iv. On August 31, 2011, the Board sent a violation notice Blankinship regarding these violations and requesting that Blankinship provide the Board with a written plan to rectify the delineated violations.
- i. During the September 9, 2011 inspection, the Board inspector noted that:
 - i. The floors, walls, ceilings, equipment and contents of the school were not clean and in good repair in violation of 20 CSR 2085-11.020;
 - ii. Student licenses were not conspicuously displayed with a photo nor were students who were no longer attending the school properly terminated, each in violation of 20 CSR 2085-12.010; and

- iii. The ceiling tiles and walls showed stains from water damage and were shedding stucco material, the carpet was dirty and in need of repair, and four styling chairs and seven waiting chairs were torn and in need of repair.

II.

CONCLUSIONS OF LAW

7. 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.

8. The Board has cause to deny or refuse Blankinship's application for a cosmetology school license pursuant to § 329.140.2 (5), (6), (12), (13) and (15), RSMo, which provide:

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:

(5) Incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

(12) Failure to display a valid license if so required by this chapter or any rule promulgated hereunder;

(13) Violation of any professional trust or confidence; [and]

(15) Failure or refusal to properly guard against contagious, infectious or communicable diseases or the spread thereof.

9. State regulation 20 CSR 2085-11.020 provides, in pertinent part:

(1)(B) Floors, Walls, Ceilings, Equipment, and Contents.

For areas where all classified occupations of cosmetology are practiced, including retail cosmetic sales counters, all floors, walls, ceilings, equipment, and contents shall be constructed of washable materials and must be kept clean and in good repair at all times. Commercial-type carpet may be used.

...

(2) Sanitation Requirements.

(A) Protection of the Patron.

1. Headrests shall be covered with a clean towel or paper protector for each usage.
2. Clean towels shall be used for each patron. A closed cabinet or drawer shall be provided for clean towels and linens.
3. Soiled towels shall be placed in a closeable, leakproof container immediately upon completion of use.
4. A new laundered towel or neck strip shall be placed around each patron's neck to prevent cape or hair cloth from touching skin.
5. Implements and instruments shall be sanitized after use on each patron.

...

(D) Disinfecting and Storing Implements.

All implements (instruments or tools) used in cosmetology establishments and schools, including scissors, clips, blades, rods, brushes, combs, etc. shall be thoroughly cleansed after each use. All implements which may come in contact directly or indirectly with the skin of the patron shall be disinfected with an Environmental Protection Agency (EPA)-registered disinfectant, which may be a spray solution. The label on the disinfectant shall show that it is EPA-registered with demonstrated bactericidal (disinfectant), virucidal, and fungicidal activity and shall be used according to the manufacturer's instructions. All implements shall be completely immersed in the solution or, if not capable of immersion, thoroughly dipped in the solution for a period of not less than five (5) minutes. Implements shall either be stored in the solution or removed and stored in a dust-tight cabinet, covered container, or drawer at all times when not in use. The dust-tight cabinet, covered container, or drawer shall

be kept free of other items not capable of being disinfected. Implements shall be permitted to air dry.

(E) Disease Control.

Except as otherwise provided by the Americans With Disabilities Act, a licensee, apprentice, student, or retail cosmetic salesperson providing cosmetology services with a communicable disease shall take all proper precautions to prevent the spread of the disease to any person while practicing barbering, cosmetology, or acting as a salesperson. A licensee, apprentice, or student attending a patron known by the licensee, apprentice, or cosmetologist to have a communicable disease shall also take all proper precautions to prevent the spread of the disease to any person, except as otherwise provided by the Americans With Disabilities Act. Disposable gloves shall be worn by any licensee, apprentice, or student with open wounds, dermatitis, or other non-intact skin of the hands.

...
(H) Training Kit.

No student or apprentice shall be permitted to take his/her training kit from the school or cosmetology establishment while in training[.]

10. State regulation 20 CSR 2085-12.010 provides, in pertinent part:

(C) Terminations. All persons holding a license to operate a school shall be responsible for submitting properly completed termination forms for all students who terminate their training. School license holders are responsible for obtaining termination forms from the board.

1. Termination forms must be submitted within two (2) weeks of the date of student's termination. The date of a student's termination is either: 1) The date the student affirmatively indicates to the school his/her intent to terminate training; or 2) The last day of any two (2)-week period during which the student failed to attend a single class. However, a school shall not terminate a student for up to six (6) weeks if the student notifies the school in writing of his/her leave of absence and the student's anticipated date of return. If the student does not return on the anticipated date of return, the school shall automatically terminate the student on that date.

- ...
11. State regulation 20 CSR 2085-12.040 provides:

(2) Minimum Equipment and Training Supplies. All schools of cosmetology teaching the occupations of Class-CA or Class-CH cosmetology, as defined in section 329.010(5), RSMo, in Missouri shall have on hand and maintain in good working condition at all times the following equipment and training supplies:

...

(Y) Individual student kit materials for each student enrolled shall include at a minimum the following:

1. Thermal equipment;
2. Haircutting equipment;
3. Chemical application implements;
4. Hair styling implements; and
5. For Class-CA hairdressing and manicuring students manicuring implements shall be included.

A. All implements and equipment contained in the student kits must be new.

B. Students shall receive student kits prior to the completion of their training.

C. All kits shall be kept clean and remain free of unsterilized items and tools.

D. No student shall be permitted to remove his/her training kit from the school or cosmetology establishment while in training.

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, 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 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 Blankinship's application for a cosmetology school license. The Board has determined that this Order is necessary to ensure the protection of the public.

III.

TERMS AND CONDITIONS

14. Based on the foregoing, G.L. Blankinship d/b/a New Dimension Beauty School, located at 3123 Prospect Avenue, Kansas City, Missouri 64128, is granted a cosmetology school license which is hereby placed on PROBATION for the period of five (5) years from the

effective date of this Order. During the aforementioned probation, Blankinship shall be entitled to offer and perform as a licensed cosmetology school at this location subject to the following terms and conditions:

A. During the probationary period, Licensee 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 probationary period, Licensee shall keep the Board informed of his current work and home telephone numbers. Licensee shall notify the Board in writing within ten days (10) of any change in this information.

C. During the probationary period, Licensee shall timely renew his cosmetology school 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, Licensee 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 probationary period, Licensee shall appear in person for interviews with the Board or its designee upon request.

F. Licensee 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, 2012.

G. If, at any time during the probationary period, Licensee changes his address from the state of Missouri, or ceases to maintain his cosmetology school 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 1335, Jefferson City, Missouri 65102.

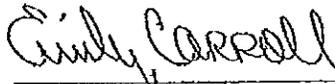
J. Any failure by Blankinship to comply with any condition of discipline set forth herein constitutes a violation of this Order.

15. This Order does not bind the Board or restrict the remedies available to it concerning any violation by Licensee 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 10 DAY OF JANUARY, 2012.

MISSOURI STATE BOARD OF COSMETOLOGY
AND BARBER EXAMINERS



Emily Carroll, Executive Director