

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 May 11, 2016, Welch applied for a cosmetology student license to enroll at National Academy of Beauty, 670 Walton Drive, Farmington, Missouri.

3. On his application, Welch 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 of the United States, whether or not sentence was imposed?”

4. On or about June 3, 2016, Welch provided a statement regarding his criminal background. Welch stated that in April 2006 he was pulled over by the police and searched, revealing 8 grams of crack cocaine and “a few” Xanax pills. He stated he was charged with possession with intent “which was a federal charge.” He stated he entered a guilty plea and was sentenced to five years in federal prison to be followed by 4 years federal probation. He stated he spent 4 years in prison and was granted early release for a drug program. He stated that since then he completed probation and “turned my life around.”

5. On or about June 7, 2016, Welch provided an additional response regarding his criminal background. Welch stated that regarding the third degree assault conviction, he was charged when he was 19 and it arose from a fight in which he defended himself after being hit in the head with a bottle. He stated regarding the theft charge, it was “a low point in my life” and

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

he was under the influence of alcohol and illegal drugs. He stated he takes full responsibility for breaking into someone's car. He stated the stealing charge was an honest mistake. He stated he grabbed a pack of cigarettes and got in line but forgot about them when his phone rang. He stated he was cooperative with the police.

6. A review of Welch's criminal history reveals:
 - a. On or about April 24, 2003, Welch pled guilty to the Class C Misdemeanor of Assault in the 3d Degree Pursuant to Subdivisions (3), (5), in the Circuit Court of St. Francois County, Missouri, case number 02CR612794. The Court sentenced Welch to 365 days in jail but suspended the execution of sentence and placed Welch on two years' supervised probation. The Court then revoked the probation and ordered Welch to serve 180 of the 365 days followed by probation. Welch completed probation October 22, 2006.
 - b. On or about February 23, 2006, Welch pled guilty to the class A misdemeanor of Stealing, value less than \$500 in the Circuit Court of St. Francois County, Missouri, case number 06D7-CR00256. The Court sentenced Welch to a fine of \$250.
 - c. On or about March 15, 2006, Welch pled guilty to the class D felony of Operating Motor Vehicle on the Highway While Driver's License Revoked, in the Circuit Court of Iron County, Missouri, case number 05E9-CR00375-01. The Court sentenced Welch to three years' incarceration in Missouri Department of Corrections but suspended the execution of sentence and placed Welch on 5 years' supervised probation. Welch completed probation on April 5, 2012.

- d. On or about July 11, 2006, Welch pled guilty to the federal felony of Possession with Intent to Distribute in Excess of Five Grams of Cocaine Base (Crack) in the United States District Court for the Eastern District of Missouri, case number 4:06CR281CEJ. On October 13, 2006, the Court sentenced Welch to sixty months in federal prison to be followed by four years' supervised release.
- e. On or about November 2, 2006, Welch pled guilty to the class A misdemeanor of Operating a Motor Vehicle on Highway while Revoked, in the Circuit Court of Iron County, Missouri, case number 06E9-CR00136. The Court sentenced Welch to time served in jail on his federal case above.

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 his 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 Welch'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[.]

9. As a result of Welch's actions as set forth in paragraphs 2 through 6 above, the Board has cause to deny or refuse Welch's application for a cosmetology student license pursuant to § 329.140.1, RSMo, and § 329.140.2(2), RSMo.

10. 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.

11. The Board issues this Order in lieu of denial of Welch'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

12. Based on the foregoing, Eddie S. Welch is granted a cosmetology **student license**, which is hereby placed on **PROBATION** for the period during which he 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, Eddie S. Welch shall be entitled to enroll as a cosmetology student subject to the following terms and conditions.

IV.

TERMS AND CONDITIONS

13. During the aforementioned probation, Eddie S. Welch, 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, 2017.
- 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 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.
- 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.

14. 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.

15. 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 7th DAY OF JULY, 2016.

MISSOURI STATE BOARD OF COSMETOLOGY
AND BARBER EXAMINERS



Emily R. Carroll, Executive Director