

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 May 7, 2020, Comer applied for a cosmetology student license to enroll at Paul Mitchell the School, 1101 Hutchens Drive, Columbia, MO 65203.

3. On her application, Comer 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. With her application, Comer provided a statement about her criminal history and intent to practice cosmetology.

5. A review of Comer’s criminal history reveals that:

- a. On or about June 23, 2010, Comer pled guilty in the Circuit Court of Randolph County, Missouri, case number 10RA-CR00184-01, to the class C felony of Theft/Stealing of Property or Services of \$500 or More But Less Than \$25,000. The Court sentenced Comer to five years of incarceration but suspended the imposition of sentence and placed Comer on five years’ probation. On May 22, 2013, the Court revoked Comer’s probation and executed the five-year incarceration sentence.
- b. On or about September 9, 2012, Comer pled guilty in the Circuit Court of Howard County, Missouri, case number 12HD-CR00109, to the class A misdemeanors of

Possession of Up to 35 Grams of Marijuana and Unlawful Use of Drug Paraphernalia. The Court imposed a fine of \$300 for the marijuana possession conviction and a fine of \$150 for the drug paraphernalia conviction.

- c. On or about June 26, 2013, Comer pled guilty in the Circuit Court of Boone County, Missouri, case number 13BA-CR00924, to the class A misdemeanor of Theft/Stealing of Property or Services of Less Than \$500. The Court sentenced Comer to ten days in jail.
- d. On or about July 27, 2015, Comer pled guilty in the Circuit Court of Cooper County, Missouri, case number 15CO-CR00153, to the class A misdemeanor of Theft-Stealing Property or Services Less Than \$500. The Court sentenced Comer to 180 days in jail but suspended the execution of the sentence and placed Comer on two years' unsupervised probation.
- e. On or about May 25, 2016, Comer plead guilty in the Circuit Court of Saline County, Missouri, case number 16SA-CR00091, to the class A misdemeanor of DWI – Drug Intoxication. The Court imposed a fine of \$300.
- f. On or about June 7, 2016, Comer pled guilty in the Circuit Court of Howard County, Missouri, case number 15HD-CR00184-01, to the class C felony of Endangering the Welfare of a Child – First Degree. The Court sentenced Comer to seven years of incarceration but suspended the execution of the sentence and placed Comer on five years of probation. On March 14, 2017, the Court revoked Comer's probation and executed the seven-year incarceration sentence.
- g. On or about June 7, 2016, Comer pled guilty in the Circuit Court of Howard County, Missouri, case number 16HD-CR00082, to the class A misdemeanor of

Possession of Up to 35 Grams of Marijuana. The Court sentenced Comer to 30 days in jail but suspended the execution of sentence and placed Comer on two years' unsupervised probation.

- h. On or about April 24, 2017, Comer pled guilty in the Circuit Court of Randolph County, Missouri, case number 16RA-CR00663, to the unclassified misdemeanor of Driving While Revoked/Suspended, the class C misdemeanor of Failure to Drive on Right Half of Roadway When Roadway Was of Sufficient Width, the unclassified misdemeanor of Operating a Motor Vehicle Without Financial Responsibility, and the class A misdemeanor of Possession of Up to 35 Grams of Marijuana. The Court sentenced Comer to ten days of incarceration in jail.
- i. On or about April 7, 2017, Comer pled guilty in the Circuit Court of Boone County, Missouri, case number 16BA-CR04398-01, to the class C felony of Receiving Stolen Property. The Court sentenced Comer to four years of incarceration.
- j. On or about April 7, 2017, Comer pled guilty in the Circuit Court of Boone County, Missouri, case number 17BA-CR00581-01, to the class D felony of Possession of Controlled Substance Except 35 Grams of Less of Marijuana. The Court sentenced Comer to four years of incarceration.
- k. On or about April 11, 2017, Comer pled guilty in the Circuit Court of Howard County, Missouri, case number 17HD-CR00070, to the class A misdemeanor of Failure to Drive on Right Half of Roadway When Roadway Was of Sufficient Width, the class D misdemeanor of Driving While Revoked/Suspended, and the

class D misdemeanor of Operating a Motor Vehicle Without Maintaining Financial Responsibility. The Court imposed a fine on Comer.

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 Comer'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 Comer's actions as set forth above, the Board has cause to deny or refuse Comer'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 Comer'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, Katherine M. Comer 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. During the aforementioned probation, Katherine M. Comer 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, Katherine M. Comer, shall be entitled to enroll as a cosmetology student subject to the following terms and conditions:

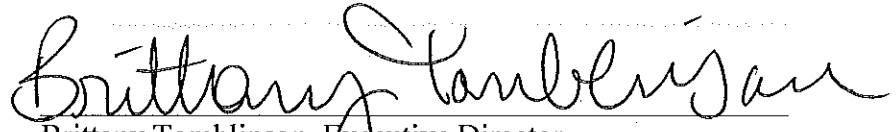
- A. During the disciplinary period, Applicant shall comply with all provisions of Chapter 329, RSMo, all applicable board regulations, all applicable federal and state drug laws, rules and regulations and all applicable federal and state criminal laws. "State" includes the state of Missouri, all other 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. 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.
- F. 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.
- G. 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.
- H. 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 17 DAY OF June, 2020.



Brittany Tomblinson, Executive Director
Board of Cosmetology and Barber Examiners