

**BEFORE THE MISSOURI STATE BOARD
OF COSMETOLOGY AND BARBER EXAMINERS**

In the Matter of the Application of)
)
MARY LOUANN GILMORE,)
)
Applicant.)

**ORDER OF THE MISSOURI STATE BOARD OF COSMETOLOGY
AND BARBER EXAMINERS ISSUING A PROBATIONARY
COSMETOLOGY STUDENT LICENSE TO MARY LOUANN GILMORE**

The Missouri State Board of Cosmetology and Barber Examiners (the "Board") hereby issues its **ORDER** granting a **PROBATIONARY COSMETOLOGY STUDENT LICENSE**, License No. (2017002411) to Mary Louann Gilmore ("Applicant"), pursuant to the provisions of § 324.038, RSMo.¹ As set forth in § 324.038.2, RSMo, Applicant may submit a written request to the Administrative Hearing Commission seeking a hearing and review of the Board's decision to issue a probated student 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 decision shall be considered waived. Should Applicant 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:

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

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 11, 2017, Applicant applied for a Missouri cosmetology student license to enroll at Hyde Beauty Academy, 3151 Litton Road, Chillicothe, Missouri.

3. On her application, Applicant answered “yes” to the question “Have you been 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 11, 2017 application, Applicant provided an explanation of her criminal history. In her explanation, Applicant explained that she is currently incarcerated for a class C felony possession of a controlled substance and four class D felonies for resisting arrest. She noted previous incarceration for distribution of a controlled substance and forgery. Applicant stated that she is attempting to “turn [her] life around” and is interested in a career in cosmetology upon her release from incarceration.

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

a. On or about July 16, 2007, Applicant pled guilty to the misdemeanor charges of *Property Damage 2nd Degree* and *Assault/Attempt Assault – L/E, C/O, E/P, Hwy In Construction/Wrk Zone, Utility Wrkr Or P&P – Physical Contact-3rd Deg*, and *Resisting/Interfering With Arrest, Detention Or Stop*, in the Circuit Court of Johnson County, Missouri, case number 06N2-CR01352-01. The Court

sentenced Applicant to 6 months jail incarceration on each charge, suspended imposition of Applicant's sentence and placed her on 2 years' supervised probation.

- b. On or about July 17, 2007, Applicant pled guilty to the misdemeanor A charges of *Possession Of Up To 35 Grams Marijuana* and *Unlawful Use Of Drug Paraphernalia*, in the Circuit Court of Lafayette County, Missouri, case number 07LF-CR00181. The Court sentenced Applicant to a fine on both charges.
- c. On or about September 5, 2007, Applicant pled guilty to the misdemeanor A charge of *Tampering With Physical Evidence*, in the Circuit Court of Johnson County, Missouri, case number 07JO-CR00593. The Court sentenced Applicant to five days' jail incarceration.
- d. On or about September 5, 2007, Applicant pled guilty to the misdemeanor A charges of *Domestic Assault – 3rd Degree – 1st/2nd Offense*, in the Circuit Court of Johnson County, Missouri, case number 07N2-CR00361. The Court sentenced Applicant to fifteen days' jail incarceration, suspended imposition of sentence and placed her on two years' probation.
- e. On or about May 4, 2009, Applicant pled guilty to the class C felony charges of *Forgery*, in the Circuit Court of Johnson County, Missouri, case number 08JO-CR00760-01. The Court sentenced Applicant to five years' incarceration, on each charge, with the Missouri Department of Corrections, suspended execution of the sentence and placed her on five years' supervised probation. On or about March 21, 2011, Applicant's probation was revoked and the incarceration sentence was reinstated and executed.

- f. On or about May 4, 2009, Applicant pled guilty to two class B felony charges of *Dist/Del/Manf/Produce Or Attempt To Or Possess W/Intent To Dist/Del/Manf/Produce A Controlled Substance*, in the Circuit Court of Johnson County, Missouri, case number 08JO-CR01010-01. The Court sentenced Applicant to five years' incarceration, on each charge, with the Missouri Department of Corrections, suspended execution of the sentence and placed her on five years' supervised probation. On or about March 21, 2011, Applicant's probation was revoked and the incarceration sentence was reinstated and executed.
- g. On or about May 27, 2009, Applicant pled guilty to the misdemeanor A charge of *Possession Of Up To 35 Grams Marijuana*, in the Circuit Court of Johnson County, Missouri, case number 08JO-CR00265. The Court sentenced Applicant to fifteen days' jail incarceration in the Johnson County Jail.
- h. On or about May 27, 2009, Applicant pled guilty to the misdemeanor A charge of *Resisting/Interfering With Arrest, Detention Or Stop*, in the Circuit Court of Johnson County, Missouri, case number 08JO-CR00811. The Court sentenced Applicant to fifteen days' jail incarceration in the Johnson County Jail.
- i. On or about July 7, 2009, Applicant pled guilty to the misdemeanor A charge of *Non-Support*, in the Circuit Court of Pettis County, Missouri, case number 08PT-CR01469. The Court sentenced Applicant to thirty days' jail incarceration, with credit for time served.

- j. On or about May 13, 2013, Applicant pled guilty to the class C felony charges of *Possession Of Controlled Substance Except 35 Grams Or Less Of Marijuana* and two misdemeanor A charges of *Unlawful Use Of Drug Paraphernalia* and *Unlawful Possession, Transport, Manufacture, Repair Or Sale Of Illegal Weapon* in the Circuit Court of Johnson County, Missouri, case number 12 JO-CR00933-01. The Court sentenced Applicant to seven years' incarceration with the Missouri Department of Corrections on the felony charge and six months jail incarceration for the misdemeanor charges.
- k. On or about February 10, 2014, Applicant pled guilty to the class C felony charge of *Forgery*, in the Circuit Court of Jackson County, Missouri, case number 1216-CR04526-01. The Court sentenced Applicant to three years' incarceration with the Missouri Department of Corrections, suspended execution of sentence and placed Applicant on three years' supervised probation.
- l. On or about June 4, 2015, Applicant pled guilty to the unclassified misdemeanor charge of *Driving While Revoked/Suspended – 1st Offense*, in the Circuit Court of Clay County, Missouri, case number 15CY-CR02376. The Court sentenced Applicant to seven days' jail incarceration.
- m. On or about April 21, 2016, Applicant pled guilty to the class D felony charge of *Resisting Arrest/Detention/Stop By Fleeing – Creating A Substantial Risk Of Serious Injury/Death To Any Person*, in the Circuit Court of Cass County, Missouri, case number 14CA-CR00560-01. The Court sentenced Applicant to three years' incarceration with the Missouri Department of Corrections, to run concurrent with case number 08JO-CR00760-01.

- n. On or about May 27, 2016, Applicant pled guilty to the class D felony charge of *Resisting Arrest/Detention/Stop By Fleeing – Creating A Substantial Risk Of Serious Injury/Death To Any Person*, in the Circuit Court of Boone County, Missouri, case number 15BA-CR03774-01. The Court sentenced Applicant to two years' incarceration with the Missouri Department of Corrections, to run concurrent with sentences out of Cass and Johnson Counties.
- o. On or about July 18, 2016, Applicant pled guilty to the class D felony charge of *Resisting Arrest/Detention/Stop By Fleeing – Creating A Substantial Risk Of Serious Injury/Death To Any Person*, in the Circuit Court of Pettis County, Missouri, case number 15PT-CR00411-01. The Court sentenced Applicant to two years' incarceration with the Missouri Department of Corrections, to run concurrent with other sentences being served.

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 Applicant'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 Applicant's criminal record as detailed in paragraph 5, the Board has cause to deny or refuse Applicant'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 Applicant'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, Applicant, Mary Louann Gilmore, 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, Mary Louann

Gilmore 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, Mary Louann Gilmore, 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 July 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 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 27th DAY OF JANUARY 2017.

MISSOURI STATE BOARD OF COSMETOLOGY
AND BARBER EXAMINERS



Emily R. Carroll, Executive Director