



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 July 28, 2014, Moldenhauer applied for a Missouri cosmetology “Apprentice” license to enroll and receive apprentice training at Varsity Nails, 904 Elm Street, Ste. 104, Columbia, Missouri.

3. On her application, Moldenhauer 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?”

4. With her July 28, 2014 application, Moldenhauer provided an explanation of her criminal history. In her explanation, Moldenhauer stated that in July of 2011, while attending a “family gathering” in the State of Iowa, she was involved in a “very minor physical altercation with a cousin.” She stated that charges were “pressed” against her based upon allegation by the cousin that she had sustained injuries from being slapped by Moldenhauer. Moldenhauer asserted that the physical altercation was a reaction by her to a racial slur the cousin directed towards Moldenhauer’s son. The cousin, Molderhauer reported, call her son “the n-word.” Moldenhauer acknowledged that she lost her temper and slapped the cousin because of the “derogatory statement that [the cousin] made about her little boy.” Moldenhauer stated that she reacted “in a way that [she] never would have normally.” She characterized it as a situation

which involved “extenuating circumstances” and as an “isolated incident.” Moldenhauer noted that she “plead guilty to a misdemeanor charge of Simple Assault with No Injury.” She noted further, that she “received a year of unsupervised probation, which [she] completed without any issues.” Finally she noted that “[u]pon completing the year of probation, the charge was expunged from [her] record.” Moldenhauer concluded that the subject incident was “the one and only time [she] has ever acted in that way and [she] regret[s] it immensely.”

5. Nathan D. Runde, the attorney who represented Moldenhauer in the above described legal matter, provided a written statement regarding the matter. Mr. Runde noted that Moldenhauer “received a Deferred Judgment on a Simple Misdemeanor of Assault with No Injury.” Mr. Runde stated that, in Iowa, “a Simple Misdemeanor is the lowest offense a person can be charged with, notwithstanding traffic tickets.” Mr. Runde asserted that the “charge has since been dismissed and expunged from [Moldenhauer’s] record indicating [Moldenhauer] has complied with all requirements of the Court.”

## 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 Moldenhauer’s application for a cosmetology “Apprentice” 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 Moldenhauer's plea of guilty as detailed in paragraphs 4 and 5 above, the Board has cause to deny or refuse Moldenhauer's application for a cosmetology "Apprentice" 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 Moldenhauer's application for a cosmetology "Apprentice" license. The Board has determined that this Order is necessary to ensure the protection of the public.

III.

**ORDER**

11. Based on the foregoing, Jessica Moldenhauer is granted a cosmetology “Apprentice” license, which is hereby placed on **PROBATION** for the period during which she is enrolled and serving her apprenticeship in the cosmetology establishment and receiving training hours, not to exceed five (5) years from the effective date of this Order. During the aforementioned probation, Jessica Moldenhauer shall be entitled to enroll as a cosmetology apprentice subject to the following terms and conditions.

IV.

**TERMS AND CONDITIONS**

12. During the aforementioned probation, Jessica Moldenhauer, shall be entitled to enroll as a cosmetology “Apprentice” 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 licenses and shall timely pay all fees required for licensure and comply with all other Board requirements necessary to maintain said licenses 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 January 1, 2015.
- 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 "Apprentice" 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.

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 23 DAY OF OCTOBER 2014.

MISSOURI STATE BOARD OF COSMETOLOGY  
AND BARBER EXAMINERS



Emily Carroll, Executive Director