

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 March 20, 2017, Applicant applied for a Missouri cosmetology student license to enroll at Hyde Beauty Academy, 3151 Litton Road, Chillicothe, Missouri.

3. On Applicant's 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 March 20, 2017 application, Applicant provided a written statement in which she acknowledged her criminal history, which she attributed to her drug addiction and poor choices. She stated that she is currently serving her sentence and is working on "changing her ways."

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

a. On or about May 19, 2009, Applicant pled guilty to class A misdemeanor of *Possession Of Up To 35 Grams Marijuana*, in the Circuit Court of Pettis County, Missouri, case number 08PT-CR01706. The Court sentenced Applicant to 964 hours of Jail incarceration.

b. On or about April 26, 2010, Applicant pled guilty to the class C felony of *Possession Of Controlled Substance Except 35 Grams*

Or Less Of Marijuana, in the Circuit Court of Cooper County, Missouri, case number 09CO-CR00364. The Court sentenced Applicant to 4 years' incarceration with the Missouri Department of Corrections.

c. On or about June 28, 2010, Applicant pled guilty to the class C felony of *Possession Of Controlled Substance Except 35 Grams Or Less Of Marijuana*, in the Circuit Court of Cooper County, Missouri, case number 10PT-CR00026-02. The Court sentenced Applicant to 4 years' incarceration with the Missouri Department of Corrections.

d. On or about December 18, 2012, Applicant pled guilty to the class A misdemeanor charge of *Theft/Stealing (Value Of Property Or Services Is Less Than \$500)*, in the Circuit Court of Pettis County, Missouri, case number 12PT-CR01208. The Court sentenced Applicant to 15 days' jail incarceration.

e. On or about May 31, 2014, Applicant was charged with the class C felony of *Possession Of Controlled Substance Except 35 Grams Or Less Of Marijuana*, in the Circuit Court of Pettis County, Missouri, case number 15PT-CR00910. There is no disposition on this case.

f. On or about January 13, 2015, Applicant pled guilty to the class C felony of *Forgery*, the class D felony of *Fraudulent Use Of Credit/Debit Device (Value of \$500 or More)*, and the class C felony of *Theft/Stealing (Value Of Property Or Services Is \$500 Or More But Less Than \$25,000)*, in the Circuit Court of Pettis County, Missouri, case number 14PT-CR00077-01. The Court sentenced Applicant to 7 years' incarceration

with the Missouri Department of Corrections on the class C felonies, and 4 years' incarceration on the class D felony. The Court then suspended execution of Applicant's sentence, placing Applicant of 5 years' supervised probation and 120 days shock incarceration.

- g. On or about January 13, 2015, Applicant pled guilty to the class A misdemeanor charge of *Theft/Stealing (Value Of Property Or Services Is Less Than \$500 and to the class A misdemeanor of Possession Of Up To 35 Grams Marijuana*, in the Circuit Court of Pettis County, Missouri, case number 14PT-CR00037. The Court sentenced Applicant to 120 days' jail incarceration on both charges to run concurrent.
- h. On or about July 15, 2013, Applicant pled guilty to the class A misdemeanor charge of *Theft/Stealing (Value Of Property Or Services Is Less Than \$500)*, in the Circuit Court of Pettis County, Missouri, case number 14PT-CR00968. The Court sentenced Applicant to 120 days' jail Incarceration.
- i. On or about July 15, 2013, Applicant pled guilty to the class A misdemeanor charge of *Theft/Stealing (Value Of Property Or Services Is Less Than \$500)*, in the Circuit Court of Pettis County, Missouri, case number 14PT-CR00435. The Court sentenced Applicant to 120 days' jail Incarceration.
- j. On or about March 23, 2015, Applicant pled guilty to the class B misdemeanor charge of *Trespass – 1st Degree*, in the Circuit Court of Saline County, Missouri, case number 14SA-CR00439. The Court sentenced

Applicant to 180 days' jail Incarceration.

k. On or about March 23, 2015, Applicant pled guilty to the class C felony of *Burglary – 2nd Degree*, and the class A misdemeanor of *Theft/Stealing (Value Of Property Or Services Is Less Than \$500)*, in the Circuit Court of Saline County, Missouri, case number 14SA-CR00438-01. The Court sentenced Applicant to 10 years' incarceration with the Missouri Department of Corrections on the class C felony, and 1 year jail incarceration on the class A misdemeanor.

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, Wendy Carolynn Smith, is granted a cosmetology **student license**, which is hereby placed on **PROBATION** for the period during which Applicant 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, Wendy Carolynn Smith 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, WendyCarolynn Smith, 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, 2018.
 - 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.

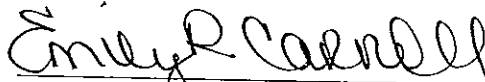
I. Any failure by Applicant to comply with any condition of discipline set forth herein constitutes a violation of this Order.

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 31st DAY OF MAY 2017.

MISSOURI STATE BOARD OF COSMETOLOGY
AND BARBER EXAMINERS



Emily R. Carroll, Executive Director