

## MINUTES OF MEETING

### BOARD FOR BARBERS AND COSMETOLOGY INFORMAL FACT-FINDING CONFERENCES AUGUST 24, 2004 (9:00 A.M.)

The Board for Barbers and Cosmetology convened in Richmond, Virginia, for the purpose of holding Informal Fact-Finding Conferences pursuant to the Administrative Process Act.

Joyce L. Wilson-Clemmons, Presiding Officer, presided. No Board members were present.

Douglas W. Schroder appeared for the Department of Professional and Occupational Regulation.

The conference was recorded by Inge Snead & Associates, LTD. and the Summaries or Consent Orders are attached unless no decision was made.

Disc=Disciplinary Case  
Lic=Licensing Application  
RF=Recovery Fund Claim  
Trades=Tradesmen Application

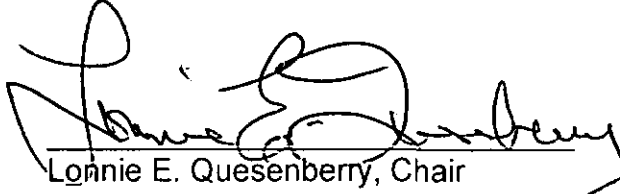
C=Complainant/Claimant  
A=Applicant  
R=Respondent/Regulant  
W=Witness  
Atty = Attorney  
Invest = Investigator

#### Participants

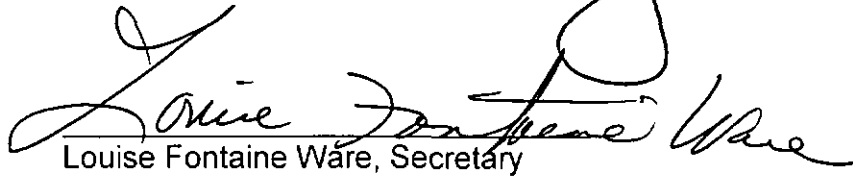
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|--|--|
| 1. Nails & Tan, Ltd. t/a Nails Plus<br>File Number 2004-04905 (Disc)                                   | Pho Thi Miller – R<br>Beth Van Sloten – C<br>Valerie Matney – Invest |
| 2. Nails & Tan, Ltd. t/a Nails Plus<br>File Number 2004-03012 (Disc)                                   | Pho Thi Miller – R<br>Beth Van Sloten – C<br>Valerie Matney – Invest |
| 3. Ms. Pho Thi Miller<br>File Number 2004-04904 (Disc)   | Pho Thi Miller – R<br>Beth Van Sloten – C<br>Valerie Matney – Invest |
| 4. Re-On's Designing Impressions<br>t/a Re-On's Designing Impressings<br>File Number 2004-02569 (Disc) | Valerie Matney – Invest<br>Vernetta Lee – W<br>Yolanda Dunn – W      |

The meeting adjourned at 4:03 p.m.

BOARD FOR BARBERS AND COSMETOLOGY



Lonnie E. Quesenberry, Chair



Louise Fontaine Ware, Secretary

COPY TESTE:

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Custodian of Records

IN THE

COMMONWEALTH OF VIRGINIA

BOARD FOR BARBERS AND COSMETOLOGY

Re: Nails & Tan Ltd. LLC  
t/a Nails Plus

File Number: 2004-04905  
License Number: 1202014655

**SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE**

On July 21, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was sent, via certified mail, to Nails & Tan, Ltd., LLC t/a Nails Plus ("Nails Plus") to the address of record. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was signed for and received.

On August 24, 2004, an Informal Fact-Finding Conference ("IFF Conference") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF Conference: Pho Thi Miller, owner, Nails Plus, Respondent; Beth Van Sloten, Complainant (by telephone); Doug Schroder, Staff Member; Valerie Matney, Investigator; and Joyce L. Wilson-Clemmons, Presiding Officer.

**RECOMMENDATION**

Based upon the evidence and the IFF Conference, the following is recommended regarding the Counts as outlined in the Report of Findings:

Count 1: Board Regulation (Effective July 1, 2003)

Nails Plus's actions of using a drill on Van Sloten's nail bed and near her cuticles are in violation of Board Regulation 18 VAC 41-20-270.G.3. During the IFF Conference, Miller stated that this is an industry practice, and that nail technicians use the drill on all parts of the nail, including the free edge. Miller testified she was not aware of the Board's Regulation which prohibits using the drill bit on anything other than the free edge of the nail. Therefore, I recommend that a monetary penalty of \$500.00 be imposed.

Count 2: Board Regulation (Effective July 1, 2003)


Nails Plus's failure to use a clean towel for each patron is in violation of Board Regulation 18 VAC 41-20-270.E.1. Based on Van Sloten's credible testimony at the IFF Conference and her statements to the investigator, I believe that the technician failed to use a clean towel during the visit on December 31, 2003. Therefore, I recommend that a monetary penalty of \$100.00 be imposed.

Count 3: Board Regulation (Effective July 1, 2003)

Nails Plus's failure to properly disinfect the drill bit before using it on Van Sloten is in violation of Board Regulation 18 VAC 41-20-270.B.8. During the IFF Conference, Miller described the process she used to clean the drill bits; however, she did not include the step which requires that the drill bit be cleaned with warm water and soap or detergent. Therefore, I recommend that a monetary penalty of \$200.00 be imposed.

Count 4: Board Regulation (Effective July 1, 2003)

Nails Plus's failure to comply with the sanitary requirements of cosmetology salons as provided for in the Board's regulations is a violation of 18 VAC 41-20-280.C.1. Based on the evidence presented in the Report of Findings and at the IFF Conference, I believe there was a failure to comply with the sanitary requirements of the Cosmetology salon. However, in consideration of Counts 2 and 3, I recommend no additional sanction.

By:   
Joyce L. Wilson-Clemmons  
Presiding Officer

Board for Barbers and Cosmetology

Date: October 27, 2007

#### **MONETARY PENALTY TERMS**

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF THE LICENSE, CERTIFICATE, OR REGISTRATION UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

VIRGINIA DEPARTMENT OF PROFESSIONAL  
AND OCCUPATIONAL REGULATION  
COMPLIANCE & INVESTIGATIONS DIVISION  
3600 WEST BROAD STREET  
RICHMOND, VIRGINIA 23230-4917

REPORT OF FINDINGS

BOARD: Board for Barbers and Cosmetology

DATE: June 7, 2004

FILE NUMBER: 2004-04905

RESPONDENT: Nails & Tan Ltd. LLC, t/a Nails Plus

LICENSE NUMBER: 1202014655

EXPIRATION: August 31, 2005

SUBMITTED BY: Valerie J. Matney

APPROVED BY: David C. Dorner

COMMENTS:

Companion Files: 2004-03012; Nails & Tan Ltd. LLC, t/a Nails Plus  
2004-04904; Pho Thi Miller

On March 5, 2004, the date of the initial inspection, Nails & Tan Ltd. LLC, t/a Nails Plus ("Nails Plus") had two licenses: nail salon license number 1208001238 issued May 31, 2000, with an expiration date of May 21, 2004; and cosmetology salon license number 1202014655 issued August 17, 2001, with an expiration date of August 31, 2005.

On March 5, 2004, Pho Thi Miller ("Miller"), the owner of Nails Plus, told the Board's agent that she was allowing the nail salon license to expire since she had obtained a cosmetology salon license. On April 21, 2004, Miller returned the nail salon license to the Board. Miller obtained the cosmetology salon license in order for licensed wax technicians or cosmetologists to perform waxing services in the salon.

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Nails & Tan Ltd. LLC, t/a Nails Plus, was at all times material to this matter a licensed Cosmetology Salon in Virginia with license number 1202014655.

Based on the analysis and/or investigation of this matter, there is probable cause to believe the respondent has committed the following violation(s) of the Code of Virginia and/or Board's regulation(s):

BACKGROUND:

On January 28, 2004, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Beth Van Sloten ("Van Sloten") regarding an injury sustained and sanitation issues at Nails Plus. (Exh C-1 and C-2)

The licensing records of the Board revealed that Cosmetology Salon license number 1202014655 was issued to Nails & Tan Ltd. LLC, t/a Nails Plus ("Nails Plus"). (Exh. I-3)

On or about December 31, 2003, Van Sloten visited Nails Plus for a pedicure and had acrylic nail tips applied to her fingernails. The technician, name unknown, used the drill on Van Sloten's nail and near her cuticles. Van Sloten sustained nicks and cuts in the cuticle area and bruising under the nail beds of her finger nails from the technician's use of the drill. (Exh. C-1 and C-2)

On or about January 16, 2004, Van Sloten returned to Nails Plus to have her acrylic nails filled in. A technician named "Nancy" used the drill on Van Sloten's nail and near her cuticles. Van Sloten sustained nicks and cuts in the cuticle area of her finger nails from the technician's use of the drill. (Exh. C-1 and C-2)

On or about March 5, 2004, the Board's agent, Investigator Valerie J. Matney, ("Investigator Matney"), conducted a salon inspection of Nails Plus. During the inspection, Pho Thi "Nancy" Miller ("Miller") identified herself to the Board's agent as the owner of Nails Plus. (Exh. I-1) Miller identified herself as the technician who worked on Van Sloten on or about January 16, 2004. (Exh. R-1)

On or about April 23, 2004, the Board's agent conducted a re-inspection of Nails Plus for compliance on sanitation issues. (Exh. I-2)

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1. Board Regulation (Effective July 1, 2003)

18 VAC 41-20-270. Sanitation and safety standards for shops, salons, and schools.

G. Client health guidelines:

3. A nail drill or motorized instrument shall be used only on the free edge of the nail

FACTS:

On or about December 31, 2003, Van Sloten visited Nails Plus for a pedicure and had acrylic nail tips applied to her fingernails. The technician, name unknown, used the drill on Van Sloten's nail and near her cuticles. Van Sloten sustained nicks and

cuts in the cuticle area and bruising under the nail beds of her finger nails from the technician's use of the drill. (Exh. C-1 and C-2)

On or about January 16, 2004, Van Sloten returned to Nails Plus to have her acrylic nails filled in. Miller used the drill on Van Sloten's nail and near her cuticles. Van Sloten sustained nicks and cuts in the cuticle area of her finger nails from Miller's use of the drill. (Exh. C-1 and C-2) In a letter dated March 9, 2004, Miller told the Board's agent that she used the drill bit on the free edge of Van Sloten's nails and an emery board near the cuticles. (Exh. R-1) However, on March 5, 2004, and April 5, 2004, Miller told the Board's agent that she used the drill on Van Sloten's nail beds and the nail beds of her other clients because it was the only way to make the nail smooth and to avoid getting water trapped between the natural nail and artificial nail. (Exh. I-1 Page 4, I-2 Page 4, I-4 and I-5)

2. Board Regulation (Effective July 1, 2003)

18 VAC 41-20-270. Sanitation and safety standards for shops, salons, and schools.

E. Articles, tools and products:

1. Clean towels and robes shall be used for each patron. Soiled towels and robes or smocks shall be stored in an enclosed container except if the towels are in separate laundry rooms.

FACTS:

On or about December 31, 2003, Van Sloten visited Nails Plus for a pedicure and had acrylic nail tips applied to her fingernails. The technician re-used a paper towel on Van Sloten. (Exh. C-1)

In a letter dated March 9, 2004, Miller told the Board's agent that she did not know who worked on Van Sloten on December 31, 2003, but that used paper towels were immediately discarded. (Exh. R-1)

3. Board Regulation (Effective July 1, 2003)

18 VAC 41-20-270. Sanitation and safety standards for shops, salons, and schools.

B. Disinfection and storage of implements.

8. Drill bits are to be soaked in acetone and scrubbed with a wire brush to remove all foreign matter. All foreign matter must be removed. The drill bits must then be cleaned with warm water and soap or detergent and rinsed, dried thoroughly with a clean paper towel, and completely immersed in an EPA-registered hospital (grade) and tuberculocidal disinfectant solution. Such implements shall be soaked for 10 minutes or more, removed, rinsed, dried thoroughly, and stored in a pre-disinfected and dry drawer, cabinet or non-airtight covered container, or left in an EPA-registered disinfection/storage solution used according to manufacturer's directions.

FACTS:

On or about January 16, 2004, Van Sloten returned to Nails Plus to have her acrylic nails filled in. Miller utilized a used drill bit on Van Sloten. Miller dipped the drill bit in solution just before working on Van Sloten's nails. (Exh. C-1) In a letter dated March 9, 2004, Miller told the Board's agent that Van Sloten observed her "...rinse, dry and spray disinfectant on a cleared drill bit..." (Exh. R-1)

4. Board Regulation (Effective July 1, 2003)

18 VAC 41-20-280. Grounds for license revocation or suspension; denial of application, renewal or reinstatement; or imposition of a monetary penalty.

- C. The board may, in considering the totality of the circumstances, revoke, suspend or refuse to renew or reinstate the license of any barbershop, cosmetology or nail salon or impose a fine as permitted by law, or both, if the board finds that:
  1. The owner or operator of the shop or salon fails to comply with the sanitary requirements of barbershops or cosmetology or nail salons provided for in these regulations or in any local ordinances

FACTS:

On or about December 31, 2003, Van Sloten visited Nails Plus for a pedicure and had acrylic nail tips applied to her fingernails. The technician, name unknown, used the drill on Van Sloten's nail and near her cuticles. Van Sloten sustained nicks and cuts in the cuticle area and bruising under the nail beds of her finger nails from the technician's use of the drill. (Exh. C-1 and C-2)

On or about January 16, 2004, Van Sloten returned to Nails Plus to have her acrylic nails filled in. Miller used the drill on Van Sloten's nail and near her cuticles. Van Sloten sustained nicks and cuts in the cuticle area of her finger nails from Miller's



use of the drill. (Exh. C-1 and C-2) In a letter dated March 9, 2004, Miller told the Board's agent that she used the drill bit on the free edge of Van Sloten's nails and an emery board near the cuticles. (Exh. R-1) However, on March 5, 2004, and April 5, 2004, Miller told the Board's agent that she used the drill on Van Sloten's nail beds and the nail beds of her other clients because it was the only way to make the nail smooth and to avoid getting water trapped between the natural nail and artificial nail. (Exh. I-1 Page 4, I-2 Page 4, I-4 and I-5)

**IN THE  
COMMONWEALTH OF VIRGINIA  
BOARD FOR BARBERS AND COSMETOLOGY**

Re: Nails & Tan Ltd. LLC  
t/a Nails Plus

File Number: 2004-03012  
License Number: 1208001238

**SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE**

On July 21, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was sent, via certified mail, to Nails & Tan, Ltd., LLC t/a Nails Plus ("Nails Plus") to the address of record. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was signed for and received.

On August 24, 2004, an Informal Fact-Finding Conference ("IFF Conference") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF Conference: Pho Thi Miller, owner, Nails Plus, Respondent; Beth Van Sloten, Complainant (by telephone); Doug Schroder, Staff Member; Valerie Matney, Investigator; and Joyce L. Wilson-Clemmons, Presiding Officer.

**RECOMMENDATION**

Based upon the evidence and the IFF Conference, the following is recommended regarding the Counts as outlined in the Report of Findings:

Count 1: Board Regulation (Effective July 1, 2003)

Nails Plus's actions of using a drill on Van Sloten's nail bed and near her cuticles are a violation of Board Regulation 18 VAC 41-20-270.G.3. Based on the evidence presented in the Report of Findings and at the IFF Conference, I believe there is a violation. However, in view of the sanction assessed in Count 1 of case number 2004-04905, I impose no additional sanction.

Count 2: Board Regulation (Effective July 1, 2003)

Nails Plus's failure to use a clean towel for each patron is a violation of Board Regulation 18 VAC 41-20-270.E.1. Based on the evidence presented in the Report of Findings and at the IFF Conference, I believe there is a violation.

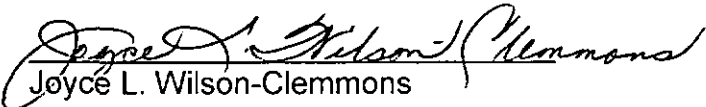
However, in view of the sanction assessed in Count 2 of case number 2004-04905, I impose no additional sanction.

Count 3: Board Regulation (Effective July 1, 2003)

Nails Plus's failure to properly disinfect the drill bit before using it on Van Sloten is in violation of Board Regulation 18 VAC 41-20-270.B.8. Based on the evidence presented in the Report of Findings and at the IFF Conference, I believe there is a violation. However, in view of the sanction assessed in Count 3 of case number 2004-04905, I impose no additional sanction.

Count 4: Board Regulation (Effective July 1, 2003)

Nails Plus's failure to comply with the sanitary requirements of nail salons as provided for in the Board's regulations is a violation of 18 VAC 41-20-280.C.1. Based on the evidence presented in the Report of Findings and at the IFF Conference, I believe there is a violation. However, in view of the sanction assessed in Count 4 of case number 2004-04905, I impose no additional sanction.

By:   
Joyce L. Wilson-Clemmons  
Presiding Officer

Board for Barbers and Cosmetology

Date: October 27, 2004

### MONETARY PENALTY TERMS

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF THE LICENSE, CERTIFICATE, OR REGISTRATION UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

VIRGINIA DEPARTMENT OF PROFESSIONAL  
AND OCCUPATIONAL REGULATION  
COMPLIANCE & INVESTIGATIONS DIVISION  
3600 WEST BROAD STREET  
RICHMOND, VIRGINIA 23230-4917

REPORT OF FINDINGS

BOARD: Board for Barbers and Cosmetology  
DATE: June 7, 2004

FILE NUMBER: 2004-03012  
RESPONDENT: Nails & Tan Ltd. LLC, t/a Nails Plus  
LICENSE NUMBER: 1208001238  
EXPIRATION: May 31, 2004

SUBMITTED BY: Valerie J. Matney  
APPROVED BY: David C. Dorner

COMMENTS:

Companion Files: 2004-04905; Nails & Tan Ltd. LLC, t/a Nails Plus  
2004-04904; Pho Thi Miller

On March 5, 2004, the date of the initial inspection, Nails & Tan Ltd. LLC, t/a Nails Plus ("Nails Plus") had two licenses: nail salon license number 1208001238 issued May 31, 2000, with an expiration date of May 21, 2004; and cosmetology salon license number 1202014655 issued August 17, 2001, with an expiration date of August 31, 2005.

On March 5, 2004, Pho Thi Miller ("Miller"), the owner of Nails Plus, told the Board's agent that she was allowing the nail salon license to expire since she had obtained a cosmetology salon license. On April 21, 2004, Miller returned the nail salon license to the Board. Miller obtained the cosmetology salon license in order for licensed wax technicians or cosmetologists to perform waxing services in the salon.

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Nails & Tan Ltd. LLC, t/a Nails Plus, was at all times material to this matter a licensed Nail Salon in Virginia with license number 1208001238.

Based on the analysis and/or investigation of this matter, there is probable cause to believe the respondent has committed the following violation(s) of the Code of Virginia and/or Board's regulation(s):

BACKGROUND:

On January 28, 2004, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Beth Van Sloten ("Van Sloten") regarding an injury sustained and sanitation issues at Nails Plus. (Exh. C-1 and C-2)

The licensing records of the Board revealed that Nail Salon license number 1208001238 was issued to Nails & Tan Ltd. LLC, t/a Nails Plus ("Nails Plus"). (Exh. I-3)

On or about December 31, 2003, Van Sloten visited Nails Plus for a pedicure and had acrylic nail tips applied to her fingernails. The technician, name unknown, used the drill on Van Sloten's nail and near her cuticles. Van Sloten sustained nicks and cuts in the cuticle area and bruising under the nail beds of her finger nails from the technician's use of the drill. (Exh. C-1 and C-2 )

On or about January 16, 2004, Van Sloten returned to Nails Plus to have her acrylic nails filled in. A technician named "Nancy" used the drill on Van Sloten's nail and near her cuticles. Van Sloten sustained nicks and cuts in the cuticle area of her finger nails from the technician's use of the drill. (Exh. C-1 and C-2)

On or about March 5, 2004, the Board's agent, Investigator Valerie J. Matney, ("Investigator Matney"), conducted a salon inspection of Nails Plus. During the inspection, Pho Thi "Nancy" Miller ("Miller") identified herself to the Board's agent as the owner of Nails Plus. (Exh. I-1) Miller identified herself as the technician who worked on Van Sloten on or about January 16, 2004. (Exh. R-1)

On or about April 23, 2004, the Board's agent conducted a re-inspection of Nails Plus for compliance on sanitation issues. (Exh. I-2)

\*\*\*\*\*

1. Board Regulation (Effective July 1, 2003)

18 VAC 41-20-270. Sanitation and safety standards for shops, salons, and schools.

G. Client health guidelines:

3. A nail drill or motorized instrument shall be used only on the free edge of the nail

FACTS:

On or about December 31, 2003, Van Sloten visited Nails Plus for a pedicure and had acrylic nail tips applied to her fingernails. The technician, name unknown, used the drill on Van Sloten's nail and near her cuticles. Van Sloten sustained nicks and

cuts in the cuticle area and bruising under the nail beds of her finger nails from the technician's use of the drill. (Exh. C-1 and C-2)

On or about January 16, 2004, Van Sloten returned to Nails Plus to have her acrylic nails filled in. Miller used the drill on Van Sloten's nail and near her cuticles. Van Sloten sustained nicks and cuts in the cuticle area of her finger nails from Miller's use of the drill. (Exh. C-1 and C-2) In a letter dated March 9, 2004, Miller told the Board's agent that she used the drill bit on the free edge of Van Sloten's nails and an emery board near the cuticles. (Exh. R-1) However, on March 5, 2004, and April 5, 2004, Miller told the Board's agent that she used the drill on Van Sloten's nail beds and the nail beds of her other clients because it was the only way to make the nail smooth and to avoid getting water trapped between the natural nail and artificial nail. (Exh. I-1 Page 4, I-2 Page 4, I-4 and I-5)

2. Board Regulation (Effective July 1, 2003)

18 VAC 41-20-270. Sanitation and safety standards for shops, salons, and schools.

E. Articles, tools and products:

1. Clean towels and robes shall be used for each patron. Soiled towels and robes or smocks shall be stored in an enclosed container except if the towels are in separate laundry rooms.

FACTS:

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3. Board Regulation (Effective July 1, 2003)

18 VAC 41-20-270. Sanitation and safety standards for shops, salons, and schools.

B. Disinfection and storage of implements.

8. Drill bits are to be soaked in acetone and scrubbed with a wire brush to remove all foreign matter. All foreign matter must be removed. The drill bits must then be cleaned with warm water and soap or detergent and rinsed, dried thoroughly with a clean paper towel, and completely immersed in an EPA-registered hospital (grade) and tuberculocidal disinfectant solution. Such implements shall be soaked for 10 minutes or more, removed, rinsed, dried thoroughly, and stored in a pre-disinfected and dry drawer, cabinet or non-airtight covered container, or left in an EPA-registered disinfection/storage solution used according to manufacturer's directions.

FACTS:

On or about January 16, 2004, Van Sloten returned to Nails Plus to have her acrylic nails filled in. Miller utilized a used drill bit on Van Sloten. Miller dipped the drill bit in solution just before working on Van Sloten's nails. (Exh. C-1) In a letter dated March 9, 2004, Miller told the Board's agent that Van Sloten observed her "...rinse, dry and spray disinfectant on a cleared drill bit..." (Exh. R-1)

4. Board Regulation (Effective July 1, 2003)

18 VAC 41-20-280. Grounds for license revocation or suspension; denial of application, renewal or reinstatement; or imposition of a monetary penalty.

- C. The board may, in considering the totality of the circumstances, revoke, suspend or refuse to renew or reinstate the license of any barbershop, cosmetology or nail salon or impose a fine as permitted by law, or both, if the board finds that:
  1. The owner or operator of the shop or salon fails to comply with the sanitary requirements of barbershops or cosmetology or nail salons provided for in these regulations or in any local ordinances

FACTS:

On or about December 31, 2003, Van Sloten visited Nails Plus for a pedicure and had acrylic nail tips applied to her fingernails. The technician, name unknown, used the drill on Van Sloten's nail and near her cuticles. Van Sloten sustained nicks and cuts in the cuticle area and bruising under the nail beds of her finger nails from the technician's use of the drill. (Exh. C-1 and C-2)

On or about January 16, 2004, Van Sloten returned to Nails Plus to have her acrylic nails filled in. Miller used the drill on Van Sloten's nail and near her cuticles. Van Sloten sustained nicks and cuts in the cuticle area of her finger nails from

Miller's use of the drill. (Exh. C-1 and C-2) In a letter dated March 9, 2004, Miller told the Board's agent that she used the drill bit on the free edge of Van Sloten's nails and an emery board near the cuticles. (Exh. R-1) However, on March 5, 2004, and April 5, 2004, Miller told the Board's agent that she used the drill on Van Sloten's nail beds and the nail beds of her other clients because it was the only way to make the nail smooth and to avoid getting water trapped between the natural nail and artificial nail. (Exh. I-1 Page 4, I-2 Page 4, I-4 and I-5)



**IN THE  
COMMONWEALTH OF VIRGINIA  
BOARD FOR BARBERS AND COSMETOLOGY**

Re: Pho Thi Miller

File Number: 2004-04904  
License Number: 1201091177

**SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE**

On July 21, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was sent, via certified mail, to Pho Thi Miller ("Miller") to the address of record. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was signed for and received.

On August 24, 2004, an Informal Fact-Finding Conference ("IFF Conference") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF Conference: Pho Thi Miller, Respondent; Beth Van Sloten, Complainant (by telephone); Doug Schroder, Staff Member; Valerie Matney, Investigator; and Joyce L. Wilson-Clemmons, Presiding Officer.

**RECOMMENDATION**

Based upon the evidence and the IFF Conference, the following is recommended regarding the Counts as outlined in the Report of Findings:

Count 1: Board Regulation (Effective July 1, 2003)


Miller's actions of using a drill on Van Sloten's nail bed and near her cuticles are a violation of Board Regulation 18 VAC 41-20-270.G.3. During the IFF Conference, Miller stated that this is an industry practice, and that nail technicians use the drill on all parts of the nail, including the free edge. Miller testified she was not aware of the Board's Regulation which prohibits using the drill bit on anything other than the free edge of the nail. Based on the evidence presented, I believe there is a violation. However, in view of the sanction assessed in Count 3 of this case, I impose no additional sanction.

Count 2: Board Regulation (Effective July 1, 2003)

Miller's failure to properly disinfect the drill bit before using it on Van Sloten is a violation of Board Regulation 18 VAC 41-20-270.B.8. During the IFF Conference, Miller described the process she used to clean the drill bits; however, she did not include the step which requires that the drill bit be cleaned with warm water and soap or detergent. Therefore, I recommend that a monetary penalty of \$200.00 be imposed.

Count 3: Board Regulation (Effective July 1, 2003)

Miller's negligence in using the drill on Van Sloten's nail beds and the nail beds of her other clients is in violation of Board Regulation 18 VAC 41-20-280.A.1. During the IFF Conference, Miller stated that this is an industry practice, and that nail technicians use the drill on all parts of the nail, including the free edge. Miller testified she was not aware of the Board's Regulation which prohibits using the drill bit on anything other than the free edge of the nail. According to Van Sloten, as a result of using the drill on the entire nail, six (6) of her cuticles were nicked, causing her to bleed. No professional medical treatment was required for Van Sloten's cuticles. Therefore, I recommend that a monetary penalty of \$500.00 be imposed.

By:   
Joyce L. Wilson-Clemmons  
Presiding Officer

Board for Barbers and Cosmetology

Date: October 27, 2004

#### **MONETARY PENALTY TERMS**

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF THE LICENSE, CERTIFICATE, OR REGISTRATION UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

VIRGINIA DEPARTMENT OF PROFESSIONAL  
AND OCCUPATIONAL REGULATION  
COMPLIANCE & INVESTIGATIONS DIVISION  
3600 WEST BROAD STREET  
RICHMOND, VIRGINIA 23230-4917

REPORT OF FINDINGS

BOARD: Board for Barbers and Cosmetology  
DATE: June 7, 2004

FILE NUMBER: 2004-04904  
RESPONDENT: Pho Thi Miller  
LICENSE NUMBER: 1201091177  
EXPIRATION: May 31, 2005

SUBMITTED BY: Valerie J. Matney  
APPROVED BY: David C. Dorner

COMMENTS:

Companion Files: 2004-03012; Nails & Tan Ltd. LLC, t/a Nails Plus  
2004-04905; Nails & Tan Ltd. LLC, t/a Nails Plus

On March 5, 2004, the date of the initial inspection, Nails & Tan Ltd. LLC, t/a Nails Plus ("Nails Plus") had two licenses: nail salon license number 1208001238 issued May 31, 2000, with an expiration date of May 21, 2004; and cosmetology salon license number 1202014655 issued August 17, 2001, with an expiration date of August 31, 2005.

On March 5, 2004, Pho Thi Miller ("Miller"), the owner of Nails Plus, told the Board's agent that she was allowing the nail salon license to expire since she had obtained a cosmetology salon license. On April 21, 2004, Miller returned the nail salon license to the Board. Miller obtained the cosmetology salon license in order for licensed wax technicians or cosmetologists to perform waxing services in the salon.

\*\*\*\*\*

Pho Thi Miller was at all times material to this matter a licensed Cosmetologist in Virginia with license number 1201091177.

Based on the analysis and/or investigation of this matter, there is probable cause to believe the respondent has committed the following violation(s) of the Code of Virginia and/or Board's regulation(s):

## BACKGROUND:

On January 28, 2004, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Beth Van Sloten ("Van Sloten") regarding an injury sustained and sanitation issues at Nails Plus. (Exh. C-1 and C-2)

On or about December 31, 2003, Van Sloten visited Nails Plus for a pedicure and had acrylic nail tips applied to her fingernails. The technician, name unknown, used the drill on Van Sloten's nail and near her cuticles. Van Sloten sustained nicks and cuts in the cuticle area and bruising under the nail beds of her finger nails from the technician's use of the drill. (Exh. C-1 and C-2)

On or about January 16, 2004, Van Sloten returned to Nails Plus to have her acrylic nails filled in. A technician named "Nancy" used the drill on Van Sloten's nail and near her cuticles. Van Sloten sustained nicks and cuts in the cuticle area of her finger nails from the technician's use of the drill. (Exh. C-1 and C-2)

On or about March 5, 2004, the Board's agent, Investigator Valerie J. Matney, ("Investigator Matney"), conducted a salon inspection of Nails Plus. During the inspection, Pho Thi "Nancy" Miller ("Miller") identified herself to the Board's agent as the owner of Nails Plus. (Exh. I-1) Miller identified herself as the technician who worked on Van Sloten on or about January 16, 2004. (Exh. R-1)

The licensing records of the Board revealed that cosmetology license number 1201091177 was issued to Pho Thi Miller ("Miller") on August 29, 2001, with an expiration date of August 31, 2005. (Exh. I-3)

On or about April 23, 2004, the Board's agent conducted a re-inspection of Nails Plus for compliance on sanitation issues. (Exh. I-2)

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### 1. Board Regulation (Effective July 1, 2003)

18 VAC 41-20-270. Sanitation and safety standards for shops, salons, and schools.

#### G. Client health guidelines:

3. A nail drill or motorized instrument shall be used only on the free edge of the nail

## FACTS:

On or about December 31, 2003, Van Sloten visited Nails Plus for a pedicure and had acrylic nail tips applied to her fingernails. The technician, name unknown, used the drill on Van Sloten's nail and near her cuticles. Van Sloten sustained nicks and

cuts in the cuticle area and bruising under the nail beds of her finger nails from the technician's use of the drill. (Exh. C-1 and C-2)

On or about January 16, 2004, Van Sloten returned to Nails Plus to have her acrylic nails filled in. Miller used the drill on Van Sloten's nail and near her cuticles. Van Sloten sustained nicks and cuts in the cuticle area of her finger nails from Miller's use of the drill. (Exh. C-1 and C-2) In a letter dated March 9, 2004, Miller told the Board's agent that she used the drill bit on the free edge of Van Sloten's nails and an emery board near the cuticles. (Exh. R-1) However, on March 5, 2004, and April 5, 2004, Miller told the Board's agent that she used the drill on Van Sloten's nail beds and the nail beds of her other clients because it was the only way to make the nail smooth and to avoid getting water trapped between the natural nail and artificial nail. (Exh. I-1 Page 4, I-2 Page 4, I-4 and I-5)

2. Board Regulation (Effective July 1, 2003)

18 VAC 41-20-270. Sanitation and safety standards for shops, salons, and schools.

B. Disinfection and storage of implements.

8. Drill bits are to be soaked in acetone and scrubbed with a wire brush to remove all foreign matter. All foreign matter must be removed. The drill bits must then be cleaned with warm water and soap or detergent and rinsed, dried thoroughly with a clean paper towel, and completely immersed in an EPA-registered hospital (grade) and tuberculocidal disinfectant solution. Such implements shall be soaked for 10 minutes or more, removed, rinsed, dried thoroughly, and stored in a pre-disinfected and dry drawer, cabinet or non-airtight covered container, or left in an EPA-registered disinfection/storage solution used according to manufacturer's directions.

FACTS:

On or about January 16, 2004, Van Sloten returned to Nails Plus to have her acrylic nails filled in. Miller utilized a used drill bit on Van Sloten. Miller dipped the drill bit in solution just before working on Van Sloten's nails. (Exh. C-1) In a letter dated March 9, 2004, Miller told the Board's agent that Van Sloten observed her "...rinse, dry and spray disinfectant on a cleared drill bit..." (Exh. R-1)

3. Board Regulation (Effective July 1, 2003)

18 VAC 41-20-280. Grounds for license revocation or suspension; denial of application, renewal or reinstatement; or imposition of a monetary penalty.

A. The board may, in considering the totality of the circumstances, fine any licensee, certificate holder, or permit holder, and to suspend or revoke or refuse to renew or reinstate any license, certificate, or permit, or deny any application issued under the provisions of Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia and the regulations of the board if the board finds that:

1. The licensee, certificate holder, permit holder or applicant is incompetent, or negligent in practice, or incapable mentally or physically, as those terms are generally understood in the profession, to practice as a barber, cosmetologist, or nail technician

FACTS:

On or about December 31, 2003, Van Sloten visited Nails Plus for a pedicure and had acrylic nail tips applied to her fingernails. The technician, name unknown, used the drill on Van Sloten's nail and near her cuticles. Van Sloten sustained nicks and cuts in the cuticle area and bruising under the nail beds of her finger nails from the technician's use of the drill. (Exh. C-1 and C-2)

On or about January 16, 2004, Van Sloten returned to Nails Plus to have her acrylic nails filled in. Miller used the drill on Van Sloten's nail and near her cuticles. Van Sloten sustained nicks and cuts in the cuticle area of her finger nails from Miller's use of the drill. (Exh. C-1 and C-2) In a letter dated March 9, 2004, Miller told the Board's agent that she used the drill bit on the free edge of Van Sloten's nails and an emery board near the cuticles. (Exh. R-1) However, on March 5, 2004, and April 5, 2004, Miller told the Board's agent that she used the drill on Van Sloten's nail beds and the nail beds of her other clients because it was the only way to make the nail smooth and to avoid getting water trapped between the natural nail and artificial nail. (Exh. I-1 Page 4, I-2 Page 4, I-4 and I-5)

IN THE  
COMMONWEALTH OF VIRGINIA

**BOARD FOR BARBERS AND COSMETOLOGY**

Re: Re-On's Designing Impressions  
t/a Re-On's Designing Impressings

File Number: 2004-02569  
License Number: 1202010938

**SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE**

On July 21, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was sent, via certified mail, to Maria Francine Lee-Driver, Owner, Re-On's Designing Impressions t/a Re-On's Designing Impressings ("Re-On's Salon") to the address of record. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was returned by the U.S. Postal Service marked "Unclaimed." The Notice and Report of Findings were re-sent to Re-On's Salon via overnight mail. The overnight mail package was signed for and received.

On August 24, 2004, an Informal Fact-Finding Conference ("IFF Conference") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Vernetta Lee and Yolanda Dunn, on behalf of Maria Lee-Driver, Regulant; Doug Schroder, Staff Member; Valerie J. Matney, Investigator; and Joyce L. Wilson-Clemmons, Presiding Officer.

**RECOMMENDATION**

Based upon the evidence and the IFF Conference, the following is recommended regarding the Counts as outlined in the Report of Findings:

Count 1: Board Regulation (Effective July 1, 2003)

Re-On's Salon's failure to operate under the name in which the license was issued is a violation of Board Regulation 18 VAC 41-20-260.C. During the IFF Conference, Investigator Matney testified that at the time of her inspection, she observed business cards and a sign which advertised O'Ria's Ltd. Dunn identified O'Ria's Ltd. as a children's hair cutting section in Re-On's shop. According to Dun, Lee-Driver had contacted DPOR and was told she could operate the children's haircutting section under her salon license. Dunn also indicated that there is a

sign for O'Ria's Ltd. inside the salon, near the children's haircutting section. Therefore, I recommend that a monetary penalty of \$500.00 be imposed.

Count 2: Board Regulation (Effective July 1, 2003)

Re-On's Salon's failure to have wet disinfection units containing enough disinfectant solution to completely immerse instruments is in violation of Board Regulation 18 VAC 41-20-270.B.1. During the IFF Conference, Dunn indicated this was an accurate statement. Therefore, I recommend that a monetary penalty of \$100.00 be imposed.

Count 3: Board Regulation (Effective July 1, 2003)

Re-On's Salon's failure to disinfect electrical clipper blades before and after each use is in violation of Board Regulation 18 VAC 41-20-270.B.3. During the IFF Conference, Dunn admitted there was a violation. Therefore, I recommend that a monetary penalty of \$100.00 be imposed.

Count 4: Board Regulation (Effective July 1, 2003)

Re-On's Salon's failure to clean and sanitize combs, clippers and other implements and store them free from contamination is in violation of Board Regulation 18 VAC 41-20-270.D.1. During the IFF Conference, Dunn admitted there was a violation. Therefore, I recommend that a monetary penalty of \$100.00 be imposed.

Count 5: Board Regulation (Effective July 1, 2003)

Re-On's Salon's failure to clean and disinfect all wax pots is in violation of Board Regulation 18 VAC 41-20-270.B.5. During the IFF Conference, Dunn admitted there was a violation. Therefore, I recommend that a monetary penalty of \$100.00 be imposed.

Count 6: Board Regulation (Effective July 1, 2003)

Re-On's Salon's failure to have wet disinfection units at all nail stations is in violation of Board Regulation 18 VAC 41-20-270.B.6. Based on the evidence presented in the Report of Findings and during the IFF Conference, I believe there was a violation of the Board's Regulation. In consideration of the sanction assessed in Count 2, I impose no additional sanction.

Count 7: Board Regulation (Effective July 1, 2003)

Re-On's Salon's failure to store nail buffers in a dry, pre-disinfected, non-airtight covered receptacle, cabinet or drawer, or to leave in the wet disinfection units is a violation of Board Regulation 18 VAC 41-20-270.B.7. Based on the evidence



presented in the Report of Findings and during the IFF Conference, I believe there was a violation. Dunn did not deny the allegations. Therefore, I recommend that a monetary penalty of \$100.00 be imposed.

Count 8: Board Regulation (Effective July 1, 2003)

Re-On's Salon's failure to keep the tops of all workstands or back bars clean is in violation of Board Regulation 18 VAC 41-20-270.D.2. Based on the facts presented in the Report of Findings and during the IFF Conference, I believe the issue is better addressed by Count 14. Therefore, I recommend that Count 8 of this file be closed with a finding of no violation of 18 VAC 41-20-270.D.2.

Count 9: Board Regulation (Effective July 1, 2003)

Re-On's Salon's failure to keep all shampoo sinks clean is in violation of Board Regulation 18 VAC 41-20-270.C.1. During the IFF Conference, Dunn admitted there was a violation. Therefore, I recommend that a monetary penalty of \$100.00 be imposed.

Count 10: Board Regulation (Effective July 1, 2003)

Re-On's Salon's use of carpeting in the immediate work area is in violation of Board Regulation 18 VAC 41-20-270.C.2. During the IFF Conference, Dunn indicated the carpet is still in the immediate work area around the nail station, and while there are plans to remove the carpet, they have not yet done so. Dunn indicated they were not aware of the Board's regulation. Therefore, I recommend that a monetary penalty of \$100.00 be imposed.

Count 11: Board Regulation (Effective July 1, 2003)

Re-On's Salon's failure to keep the general areas for client use neat and clean is in violation of Board Regulation 18 VAC 41-20-270.C.5. During the IFF Conference, Dunn did not deny the allegation. Therefore, I recommend that a monetary penalty of \$100.00 be imposed.

Count 12: Board Regulation (Effective July 1, 2003)

Re-On's Salon's failure to cover all electrical outlets with plates is in violation of Board Regulation 18 VAC 41-20-270.C.7. During the IFF Conference, Dunn indicated since the salon inspection, the outlet has been covered and is no longer in use. Therefore, I recommend that a monetary penalty of \$100.00 be imposed.

Count 13: Board Regulation (Effective July 1, 2003)

Re-On's Salon's failure to rinse wave rods and curlers after each use and to destroy end papers after each use is in violation of Board Regulation 18 VAC 41-

20-270.E.6. During the IFF Conference, Dunn indicated this was a "bad habit" and the salon is trying to improve. Therefore, I recommend that a monetary penalty of \$100.00 be imposed.

Count 14: Board Regulation (Effective July 1, 2003)

Re-On's Salon's failure to immediately remove soiled implements after use from the tops of work stations is in violation of Board Regulation 18 VAC 41-20-270.E.7. During the IFF Conference, Dunn admitted that this was another "bad habit" and the salon is trying to improve. Therefore, I recommend that a monetary penalty of \$100.00 be imposed.

Count 15: Board Regulation (Effective July 1, 2003)

Re-On's Salon's failure to keep all containers of hair products closed is in violation of Board Regulation 18 VAC 41-20-270.E.10. During the IFF Conference, Dunn indicated she had no explanation for why the containers were left open. Dunn indicated the containers may have been empty, or nearly empty. Therefore, I recommend that a monetary penalty of \$100.00 be imposed.

Count 16: Board Regulation (Effective July 1, 2003)

Re-On's Salon's failure to discard used emery boards from the tops of nail workstations is in violation of Board Regulation 18 VAC 41-20-270.E.11. Based on the evidence presented in the Report of Findings and during the IFF Conference, I believe this issue is better addressed by Count 14. Therefore, I recommend that Count 16 of this file be closed with a finding of no violation of 18 VAC 41-20-270.E.11.

Count 17: Board Regulation (Effective July 1, 2003)

Re-On's Salon's failure to store clean towels and smocks in a sanitary enclosed cabinet or covered receptacle is in violation of Board Regulation 18 VAC 41-20-270.E.13. During the IFF Conference, Dunn admitted that the salon is still in violation of this regulation, and that the cabinets have not yet been enclosed with doors. Therefore, I recommend that a monetary penalty of \$100.00 be imposed.

Count 18: Board Regulation (Effective July 1, 2003)


Re-On's Salon's failure to have a binder with all Material Safety Data Sheets in the working area is in violation of Board Regulation 18 VAC 41-20-270.F.1. During the IFF Conference, Lee stated that she had typed them and given them to each new student. However, she was unaware of the regulation requiring her to place them in a binder in the immediate working area. Therefore, I recommend that a monetary penalty of \$100.00 be imposed.

Count 19: Board Regulation (Effective July 1, 2003)

Re-On's Salon's failure to have a blood spill clean-up kit in the work area is in violation of Board Regulation 18 VAC 41-20-270.F.2. During the IFF Conference, Dunn asked for guidance on what is a blood spill clean-up kit (what it contains, and whether she could purchase one or put one together herself). Dunn was instructed to contact the Board's licensing staff for further instructions. There was evidence that the salon had two first-aid kits containing limited supplies. Dunn did not indicate that the salon had any means of properly disposing of blood products. Therefore, I recommend that a monetary penalty of \$300.00 be imposed.

Count 20: Board Regulation (Effective July 1, 2003)

Re-On's Salon's failure to maintain self-inspection forms is in violation of Board Regulation 18 VAC 41-20-270.J. During the IFF Conference, Dunn and Lee both stated they were not familiar with a self-inspection form, or the purpose for the form. Therefore, I recommend that a monetary penalty of \$50.00 be imposed.

By:   
Joyce L. Wilson-Clemmons  
Presiding Officer

Board for Barbers and Cosmetology

Date: October 27, 2004

#### **MONETARY PENALTY TERMS**

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF THE LICENSE, CERTIFICATE, OR REGISTRATION UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

VIRGINIA DEPARTMENT OF PROFESSIONAL  
AND OCCUPATIONAL REGULATION  
COMPLIANCE & INVESTIGATIONS DIVISION  
3600 WEST BROAD STREET  
RICHMOND, VIRGINIA 23230-4917

REPORT OF FINDINGS

BOARD: Board for Barbers and Cosmetology  
DATE: June 3, 2004

FILE NUMBER: 2004-02569  
RESPONDENT: Re-On's Designing Impressions, t/a Re-On's Designing  
Impressings  
LICENSE NUMBER: 1202010938  
EXPIRATION: June 30, 2004

SUBMITTED BY: Valerie J. Matney  
APPROVED BY: David C. Dorner

COMMENTS:

Companion files on School of Barbering and Cosmetology, Inc, formerly known as Re-Ons Academy, Inc. – 2004-02128; 2004-02084; 2004-01937; 2004-01693; 2004-01535; 2004-01533; 2004-01531 and 2004-01529.

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Re-On's Designing Impressions, t/a Re-On's Designing Impressings, ("Re-On's Salon") was at all times material to this matter a licensed Cosmetology Salon in Virginia License No. 1202010938. (Exh. I-3)

Based on the analysis and/or investigation of this matter, there is probable cause to believe the respondent has committed the following violation(s) of the Code of Virginia and/or Board's regulation(s):

BACKGROUND:

On December 9, 2003, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation conducted an inspection of Re-On's Designing Impressions, t/a Re-On's Designing Impressings, ("Re-On's Salon") in connection with several written complaints received regarding the lack of records and sanitation issues at Re-Ons Academy, Inc. ("Re-Ons Academy"). The licensing records of the Board revealed that Re-Ons Academy, Inc. changed its name to School of Barbering and Cosmetology, Inc. (Exh. I-4)

On or about December 9, 2003, the Board's agent, Investigator Valerie J. Matney, ("Investigator Matney"), conducted a salon inspection of Re-On's Salon. During the inspection, Clara Seward ("Seward") identified herself to the Board's agent as the office manager of Re-On's Salon. (Exh. I-1) On or about December 15, 2003, Maria Francine Lee-Driver ("Lee-Driver") identified herself to the Board's agent as the owner of Re-On's Salon.

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1. Board Regulation (Effective July 1, 2003)

18 VAC 41-20-260. Display of license.

- C. All licensees, certificate holders and permit holders shall operate under the name in which the license, certificate, or permit is issued.

FACTS:

The Board's agent observed business cards and a sign inside Re-On's Salon which advertised O'Ria's Ltd. Kid's Salon at the same location. (Exh. I-2) The licensing records of the Board revealed that Re-On's Salon and Re-Ons Academy do not have trade names for O'Ria's Ltd. Kid's Salon. (Exh. I-3 and I-4) The licensing records of the Board further revealed that O'Ria's Ltd. Kid's Salon is not a licensed cosmetology salon. (Exh. I-5)

2. Board Regulation (Effective July 1, 2003)

18 VAC 41-20-270. Sanitation and safety standards for shops, salons, and schools.

- B. Disinfection and storage of implements.

1. A wet disinfection unit is a container large enough to hold a disinfectant solution in which the objects to be disinfected are completely immersed. A wet disinfection unit must have a cover to prevent contamination of the solution. The solution must be a hospital (grade) and tuberculocidal disinfectant solution registered with the Environmental Protection Agency (EPA). Disinfectant solutions shall be used according to manufacturer's directions.

FACTS:

The Board's agent observed five (5) hair stations in the salon. One (1) hair station had a wet disinfection unit container, but it did not contain barbicide. Two (2) hair

stations had wet disinfection units with barbicide; however, the implements contained inside were not completely immersed in barbicide. One (1) hair station had a wet disinfection unit with barbicide, but it contained large amounts of hair and skin particles floating inside. (Exh. I-1 and Photos 3 and 18)

The Board's agent observed four (4) nail stations in the salon. Two (2) nail stations did not have wet disinfection units. (Exh. I-1 and Photos 1 and 16)

Seward told the Board's agent the salon ran out of barbicide and there was no barbicide present in the salon except for the barbicide contained within the wet disinfection units. (Exh. I-1)

3. Board Regulation (Effective July 1, 2003)

18 VAC 41-20-270. Sanitation and safety standards for shops, salons, and schools.

B. Disinfection and storage of implements.

3. Electrical clipper blades shall be disinfected before and after each use. Disinfection is to be carried out in the following manner:
  - a. Remove all hair and foreign matter;
  - b. Remove blade and all hair and foreign matter under blade; and
  - c. Completely immerse clipper blade into an EPA-registered hospital (grade) and tuberculocidal disinfectant solution for not less than 10 minutes. Wipe the entire handle down with the solution.
  - d. If the clipper blade cannot be removed, the use of a spray or foam used according to the manufacturer's instructions will be acceptable provided that the disinfectant is an EPA-registered hospital (grade) and tuberculocidal disinfectant solution, and that the entire handle is also disinfected by wiping with the disinfectant solution.

FACTS:

The Board's agent observed electrical clippers on top of a workstation that was not in use at the time of the inspection. The clippers contained hair. There were no cosmetologists or students working on clients at the time of the inspection. (Exh. I-1)

4. Board Regulation (Effective July 1, 2003)

18 VAC 41-20-270. Sanitation and safety standards for shops, salons, and schools.

D. Equipment sanitation.

1. Service chairs, wash basins, shampoo sinks and workstations shall be clean. Floors shall be kept free of hair, nail product, and other waste materials. Combs, brushes, towels, razors, clippers, scissors, nippers, and other instruments shall be cleaned and sanitized after every use and stored free from contamination.

FACTS:

The Board's agent observed four (4) shampoo basins in the salon. Three (3) of the shampoo basins contained hair and unknown scum-type substance. One (1) of the shampoo basins had a basket of combs that had not been cleaned and contained hair and hair products. (Exh. I-1 and Photos 14 and 15)

The Board's agent also observed combs, electrical clippers and other implements on top of workstations that contained hair and that were not stored free from contamination. (Exh. I-1 and Photo 3)

There were no cosmetologists or students working on clients at the time of the inspection. (Exh. I-1)

5. Board Regulation (Effective July 1, 2003)

18 VAC 41-20-270. Sanitation and safety standards for shops, salons, and schools.

B. Disinfection and storage of implements.

5. All wax pots will be cleaned and disinfected with an EPA-registered hospital (grade) and tuberculocidal disinfectant solution with no sticks left standing in the wax at any time.

FACTS:

The Board's agent observed a wax pot in the salon which did not have a cover to prevent contamination. In addition, a paraffin wax dipper was observed in the salon. The paraffin wax dipper's exterior was dirty and the paraffin wax contained small clumps of hair. (Exh. I-1)

6. Board Regulation (Effective July 1, 2003)

18 VAC 41-20-270. Sanitation and safety standards for shops, salons, and schools.

B. Disinfection and storage of implements.

6. Each barber, cosmetologist, and nail technician must have a wet disinfection unit at his station.

FACTS:

The Board's agent observed five (5) hair stations in the salon. One (1) hair station had a wet disinfection unit container, but it did not contain barbicide. The remaining four (4) hair stations had wet disinfection units. (Exh. I-1 and Photos 3 and 18)

The Board's agent observed four (4) nail stations in the salon. Two (2) nail stations did not have wet disinfection units. (Exh. I-1 and Photos 1 and 16)

Seward told the Board's agent the salon ran out of barbicide and there was no barbicide present in the salon except for the barbicide contained within the wet disinfection units. (Exh. I-1)

There were no cosmetologists or students working on clients at the time of the inspection.

7. Board Regulation (Effective July 1, 2003)

18 VAC 41-20-270. Sanitation and safety standards for shops, salons, and schools.

B. Disinfection and storage of implements.

7. Nail brushes, nippers, finger bowls, disinfectable or washable files and buffers and other instruments must be washed in soap and water (files are to be scrubbed with a brush to remove all foreign matter), rinsed, thoroughly dried with a clean paper towel, and then completely immersed in an EPA-registered hospital (grade) and tuberculocidal disinfectant solution for 10 minutes after each use. After disinfection they must be rinsed, dried thoroughly with a clean paper towel, and placed in a dry, pre-disinfected, non-airtight covered receptacle, cabinet or drawer, or left in an EPA-registered



disinfectant/storage system used according to manufacturer's directions.

FACTS:

The Board's agent observed used nail buffers on one of the nail workstations. (Exh. I-1 and Photo 2)

8. Board Regulation (Effective July 1, 2003)

18 VAC 41-20-270. Sanitation and safety standards for shops, salons, and schools.

D. Equipment sanitation.

2. The top of workstands or back bars shall be kept clean

FACTS:

The Board's agent observed combs, clippers and other implements located on the tops of workstations that were not in use at the time of the inspection. The Board's agent also observed a workstation with a towel on top which contained hair and hair products. Finally, the Board's agent observed small clumps of hair stuck to the top of a workstation. (Exh. I-1 and Photos 3 and 11)

9. Board Regulation (Effective July 1, 2003)

18 VAC 41-20-270. Sanitation and safety standards for shops, salons, and schools.

C. General sanitation and safety requirements:

1. All furniture, walls, floors, and windows shall be clean and in good repair. Wash basins and shampoo sinks shall be clean.

FACTS:

The Board's agent observed four (4) shampoo basins in the salon. Three (3) of the shampoo basins contained hair and unknown scum-type substance. One (1) of the shampoo basins had a basket of combs that had not been cleaned, and contained hair and hair products. (Exh. I-1 and Photos 14 and 15)

10. Board Regulation (Effective July 1, 2003)

18 VAC 41-20-270. Sanitation and safety standards for shops, salons, and schools.

C. General sanitation and safety requirements:

2. The floor surface in the immediate work area must be of a washable surface other than carpet. The floor must be kept clean, free of hair, dropped articles, spills and electrical cords

FACTS:

The Board's agent observed the floor in the nail workstation area was carpeted, and was not of a washable surface. (Exh. I-1 and Photos 13 and 16)

11. Board Regulation (Effective July 1, 2003)

18 VAC 41-20-270. Sanitation and safety standards for shops, salons, and schools.

C. General sanitation and safety requirements:

5. General areas for client use must be neat and clean with a waste receptacle for common trash

FACTS:

The Board's agent observed waste receptacles, but the overall area for client use was not clean. Hair was on the floor, and soiled implements were on top of workstations. There were no cosmetologists or students working on clients at the time of the inspection. (Exh. I-1 and Photos 1, 2, 3, 11 and 13)

12. Board Regulation (Effective July 1, 2003)

18 VAC 41-20-270. Sanitation and safety standards for shops, salons, and schools.

C. General sanitation and safety requirements:

7. Electrical outlets shall be covered by plates

FACTS:

The Board's agent observed an electrical outlet without a cover plate. (Exh. I-1 and Photo 21)

13. Board Regulation (Effective July 1, 2003)

18 VAC 41-20-270. Sanitation and safety standards for shops, salons, and schools.

E. Articles, tools and products:

6. Permanent wave rods shall be rinsed after each use. End papers shall not be reused and shall be destroyed after each use.

FACTS:

The Board's agent observed several drawers of permanent wave rods and curlers. The permanent wave rods and curlers contained large amounts of hair. In addition, several of the permanent wave rods had used end papers attached. (Exh. I-1 and Photos 5 through 9, inclusive, and 12)

14. Board Regulation (Effective July 1, 2003)

18 VAC 41-20-270. Sanitation and safety standards for shops, salons, and schools.

E. Articles, tools and products:

7. Soiled implements must be removed from the tops of work stations immediately after use

FACTS:

The Board's agent observed used emery boards, brushes, combs, clippers on the tops of several workstations in the salon. There were no cosmetologists or students working on clients at the time of the inspection. (Exh. I-1 and Photos 1, 2, 3 and 11)

15. Board Regulation (Effective July 1, 2003)

18 VAC 41-20-270. Sanitation and safety standards for shops, salons, and schools.

E. Articles, tools and products:

10. Lotions, ointments, creams, and powders shall be kept in closed containers. A clean spatula shall be used to remove creams or ointments from jars. Sterile cotton shall be used to apply creams, lotions and powders. Cosmetic containers shall be recovered after each use.

FACTS:

The Board's agent observed several open containers of hair products on three (3) workstations in the salon. There were no cosmetologists or students working on clients at the time of the inspection. (Exh. I-1 and Photos 17 and 18)

16. Board Regulation (Effective July 1, 2003)

18 VAC 41-20-270. Sanitation and safety standards for shops, salons, and schools.

E. Articles, tools and products:

11. For nail care, a sanitary container shall be provided to each client. Emery boards shall be discarded after use on each individual client

FACTS:

The Board's agent observed used emery boards on top of a nail workstation. There were no cosmetologists or students working on clients at the time of the inspection. (Exh. I-1 and Photos 1 and 2)

17. Board Regulation (Effective July 1, 2003)

18 VAC 41-20-270. Sanitation and safety standards for shops, salons, and schools.

E. Articles, tools and products:

13. Pre-sanitized tools and implements, linens and equipment shall be stored for use in a sanitary enclosed cabinet or covered receptacle

FACTS:

The Board's agent observed clean towels and smocks stored in an open cabinet above the shampoo sink basins. (Exh. I-1 and Photos 19 and 20)

18. Board Regulation (Effective July 1, 2003)

18 VAC 41-20-270. Sanitation and safety standards for shops, salons, and schools.

F. Chemical storage and emergency information.

1. Shops, salons, schools and facilities shall have in the immediate working area a binder with all Material Safety Data Sheets (MSDS) provided by manufacturers for any chemical products used

FACTS:

The Board's agent asked to see the Material Safety Data Sheet binder. Seward told the Board's agent that there was not a binder containing Material Safety Data Sheets in the salon. (Exh. I-1)

19. Board Regulation (Effective July 1, 2003)

18 VAC 41-20-270. Sanitation and safety standards for shops, salons, and schools.

F. Chemical storage and emergency information.

2. Shop, salons, schools and facilities shall have a blood spill clean-up kit in the work area

FACTS:

The Board's agent asked to see the salon's blood spill clean-up kit. Seward could not produce a blood spill clean-up kit. Seward did produce two first aid kits with alcohol swabs. (Exh. I-1)

20. Board Regulation (Effective July 1, 2003)

18 VAC 41-20-270. Sanitation and safety standards for shops, salons, and schools.

- J. All shops, salons, schools and facilities shall maintain a self-inspection form on file to be updated on an annual basis, and kept for five years, so that it may be requested and reviewed by the board at its discretion.

FACTS:

The Board's agent asked to see the self-inspection forms on file for the salon. Seward told the Board's agent that there were no self-inspection forms on file in the salon. (Exh. I-1)