

**STATE OF NEW HAMPSHIRE
OFFICE OF PROFESSIONAL
LICENSURE AND CERTIFICATION**

BOARD OF BARBERING, COSMETOLOGY AND ESTHETICS

**In Re: A Little Off the Top (Tanning)
Tanning Registration # 452**

Docket No.: 2023-BAR-021

**ORDER OF EMERGENCY
SUSPENSION – 5/2/23**

I. CASE SUMMARY/PROCEDURAL HISTORY:

On or about 04/25/23, the Office of Professional Licensure and Certification, Division of Enforcement (“OPLC Enforcement”), acting on behalf of the Board of Barbering, Cosmetology, and Esthetics (“Board”), conducted a routine inspection of A Little Off the Top Tanning, hereinafter “Facility”, in Conway, N.H. OPLC Inspector, Shannon Avery, documented that none of the staff operating the tanning facility were certified, the facility was allowing underage patrons to utilize their tanning equipment, and all patrons were allowed to set, control, and extend their own exposure times. On 05/02/23, the Board voted to suspend the Licensee’s license on an emergency basis pursuant RSA 541-A:30(III), RSA 310-A:1-m, RSA 313-A:32, and N.H. Code Admin. R., Title Bar 402.03(a) (“Rules”), and/or N.H. Code Admin. R., Title Plc 206.07 (“Plc”). This Order of Emergency Suspension follows.

II. LEGAL STANDARD:

“[U]pon finding a facility in violation of any of the provisions of RSA 313-A:26-34, the board may order the owner of a tanning facility to suspend operation of the facility....” RSA 313-A: 32 “When the board receives information indicating that a licensee has engaged in dishonesty or misconduct that poses an immediate danger to life or health, the board shall issue an order pursuant to RSA 541-A:30, III

that sets forth the alleged misconduct and immediately suspends the license for up to 10 working days pending commencement of an adjudicatory proceeding.” Rule 402.03(a).

II. EVIDENCE PRESENTED AND FINDINGS OF FACT:

A. Evidence Presented

The Board was presented with and/or considered the following evidence: 1) Memorandum from OPLC Enforcement; 2) Tanning Inspection Report (04/25/23); and Attachments (2-16).

B. Findings of Fact

A Little Off the Top is a registered tanning facility in the State of N.H. On 04/25/2023, OPLC Inspector, Shannon Avery, performed a routine inspection of the facility. Inspector Avery’s Report documents the facility had a total 10,910 violation points. The Facility had no records of customer consent forms; Fitzpatrick scales; or exposure durations, risks and warnings. The staff operating the tanning facility were not certified to operate the equipment, the facility was allegedly allowing underage patrons to utilize their tanning equipment, as well as allowing all patrons to set, control, and extend their own exposure times. Additionally, the equipment appeared to contain “degraded” bulbs.

IV. DISCUSSION AND CONCLUSIONS OF LAW:

The Board finds there is a reasonable basis to suspend the Facility’s registration to operate as a tanning facility on an emergency basis. The central facts are straightforward: none of the Facility’s employees were properly certified; the facility was allowing underage patrons to utilize their tanning equipment; and all patrons were allowed to set, control, and extend their own exposure times. The facts presented to the Board demonstrate that the facility is not operating in a safe and appropriate manner, and posing an imminent threat to the public health, safety, or welfare, especially underage patrons. This conduct, on its face, warrants immediate emergency suspension of the Facility’s Registration as a Tanning Facility pursuant to RSA 541-A:30(III) and RSA 313-A:32, pending a follow-up emergency suspension

hearing. Pursuant to the requirements of Rule 402.03(a), such conduct also appears, on its face, that it may constitute misconduct as defined at RSA 313-A:22, II(c), (d), (g), and/or (i).

IV. ORDERS:

Pursuant to RSA 541-A:30(III), RSA 310-A:1-m, and 313-A:32, the Board hereby orders the immediate emergency suspension of A Little Off the Top's Registration to operate as a tanning facility, pending a follow-up emergency hearing in this matter. A Notice of Emergency Hearing with an appropriate date/time shall follow forthwith.

DATED: 5/4/2023

_____/s/ Shane D. Goulet, Esq._____
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