

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

BOARD OF BARBERING, COSMETOLOGY, AND ESTHETICS

**In Re: C Gloss Nail Bar,
Shop Lic. #5025**

Docket No.: 22-BAR-0029

**Cindy Ho, Owner
Personal Lic.# 13910**

**FINAL DECISION AND
ORDER– 3/20/23**

I. ATTENDEES:

Jeanne Chappell, Board Chair
Kimberly A. Hannon, Board Member
Sarah Partridge, Board Member
Joshua Craggy, Board Member
Christine Horne, Board Administrator
Shana Warriner, Board Administrator
Sheri Phillips, Esq., Board Counsel
Shane D. Goulet, Esq., OPLC Hearings Officer
Cindy Ho, Licensee and Shop Owner
Marissa Shuetz, Esq., OPLC Prosecutor
Sandra Hodgdon, Inspector for OPLC
Shannon Avery, Inspector for OPLC

II. CASE SUMMARY/PROCEDURAL HISTORY:

On 08/02/22, the New Hampshire Office of Professional Licensure and Certification (“OPLC”), acting on behalf of the New Hampshire Board of Barbering, Cosmetology, and Esthetics (“Board”), conducted an inspection of C Gloss Nail Bar (“Licensee”) in response to a 05/19/22 complaint that individuals were practicing without a license at the Licensee’s shop. During the inspection, OPLC assessed 3,747 violation points for multiple hygiene and safety related violations, as well as licensing issues found on the premises. After reviewing the reports, the Board voted on 09/19/22 to commence

this adjudicative proceeding. After providing the Licensee with notice, the adjudicatory hearing was held 3/20/23. This Final Order follows.

III. SUMMARY OF THE EVIDENCE:

The Board received the following evidence pursuant to RSA 541-A:33 and Rule 213.03:

a. (8) Exhibits were submitted by Hearing Counsel, numbered as follows:

Prosecution's Exhibits

1. Complaint dated 5/19/22
2. Response dated 6/15/22
3. Board Request for Follow-up Inspection
4. Inspection Report of 8/2/22
5. Inspection Memo dated 8/5/22
6. Inspection Report of 11/8/21
7. April 2022 settlement agreement
8. New Ownership application and inspection 12/21

b. No Exhibits were submitted by Licensee/Shop Owner, in response to Hearing Counsel's identified Exhibits.

c. Testimony was received from:

1. Shannon Avery, OPLC Inspector (Offer of Proof)
2. Sandra Hodgdon, OPLC Inspector
3. Cindy Ho, Licensee

IV. CONDUCT OF THE HEARING AND EVIDENCE PRESENTED:

The Licensee appeared for the hearing through its authorized representative/shop owner, Cindy Ho. Pursuant to Rule 211.02(a), Hearing Counsel has the burden of proving its case by a preponderance of the evidence. The Presiding Officer admitted Hearing Counsel's (8) Exhibits by agreement of the parties. The Licensee submitted (0) Exhibits. All Exhibits were admitted without objection. Hearing Counsel called OPLC Inspector Shannon Avery to testify and made an offer of proof on her behalf. Hearing Counsel then called Inspector Sandra Hodgdon. The Licensee testified in response.

Shannon Avery, OPLC Inspector

Shannon Avery was sworn and Hearing Counsel made an “offer of proof” on her behalf. The “offer of proof” consisted of the following relevant facts. Shannon Avery is an inspector for OPLC. On or about 5/19/22 a complaint was filed against C Gloss Nail Bar alleging unlicensed practice. On or about 6/15/22 C Gloss Nail Bar provided a response with photographs of several manicurist and esthetician licenses. On or about 8/2/22, Inspectors Sandy Hodgdon and Shannon Avery performed an inspection at C Gloss Nail Bar. The Inspectors observed the following health, safety, and licensure violations: 11 dirty foot spa agitators with hair and debris in them; 9 tables not properly cleaned or disinfected; 26 dirty metal implements containing skin debris; 3 altered licenses; 2 licenses without a photograph; the previous inspection report was improperly displayed; missing safety data sheets for products; a wax pot with an applicator stuck to the outside and dirty implements nearby; incomplete cleaning logs; a jar of disinfectant with floating debris; and uncovered product jars, with one containing a dead bug. Additionally, the shop transferred ownership to Cindy Ho on 6/24/21, but no new shop license application was filed until 11/9/21.

Sandra Hodgdon, OPLC Inspector

Sandra Hodgdon was sworn and testified that she is an inspector for OPLC and performed an inspection of C Gloss Nail Bar on 8/2/22. She described the state of the shop on the date of the inspection which evidenced several violations of health, safety, and licensure rules. She further testified that one employee left via the back of the shop immediately upon learning an inspection was taking place. Inspector Hodgdon identified that some of the licenses displayed were distorted, one did not have a photograph on it, and one was not posted.

Cindy Ho, Licensee and Shop Owner

Cindy Ho was sworn in and testified in response. She first drew the Board’s attention to page HC0018. *See* Exhibit 4. She stated the implements evidenced in the photographs were cleaned as

thoroughly as possible and that these items are cleaned after each use. She further stated that the shop cleans everything after servicing each client.

Upon Board questioning, Ms. Licensee testified that she did not recall the brand name of her disinfectant and acknowledged that she has more to learn regarding the distinctions and proper procedure for cleaning, sanitizing, and disinfection.

The Licensee further stated that she became aware at the inspection on 8/2/2022 that her employees were not permitted to work without the appropriate New Hampshire license. She stated clearly that her new policy is “No license, no work.”

V. DISCUSSION AND FINDINGS OF FACTS / CONCLUSIONS OF LAW:

After reviewing all the evidence, accounting for the presentation and demeanor of all the witnesses, and drawing all reasonable inferences therefrom the Board finds, by a preponderance of the evidence, that the Licensee committed professional misconduct. The Board adopts Hearing Counsel’s “Proposed Findings of Fact” (paragraphs 1-12) and incorporates them by reference into this Order. The Exhibits and witness testimony adequately support the conclusions that 1) The 8/8/22 shop violations noted by Ms. Avery and Ms. Hodgdon at C Gloss Nail Bar occurred, and 2) the Licensee requires further education and training regarding sanitization, disinfection, infection control and sterilization. As part of this decision, the Board makes the following specific findings of fact and conclusions of law:

A. On or about 8/2/22, Licensee, Cindy Ho was the holder of the shop license for C Gloss Nail Bar in Concord, NH. *See* Exhibits 5 and 8, and testimony of Inspector Avery, Inspector Hodgdon, and Ms. Cindy Ho.

B. Pursuant to RSA 313-A:22(II)(c), (d), and (i) and Rule 404.09, 302.05, and/or 302.07, Licensee engaged in professional misconduct by, on 8/2/22, operating a shop with 1) multiple health code violations pertaining to: 11 dirty foot spa agitators with hair and debris in them; 9 tables not properly cleaned or disinfected; 26 dirty metal implements containing skin debris; 3 altered licenses; 2 licenses without a photograph; the previous inspection report was improperly displayed; missing safety data sheets for

products; a wax pot with an applicator stuck to the outside and dirty implements nearby; incomplete cleaning logs; a jar of disinfectant with floating debris; and uncovered product jars, with one containing a dead bug.

C. The total assessed points for those violations by the Board is 3747. *See* Exhibit 5.

D. Upon finding that professional misconduct occurred the Board considered the Licensee's prior conduct. *See* Exhibits 6 and 7.

E. Pursuant to RSA 313-A:22(III)(b), and upon a finding of professional misconduct under section (II), the Board hereby **SUSPENDS** Licensee's shop license #5025 and personal license #13910 until the following occurs:

- a. Pursuant to RSA 313-A:22(III)(d) and upon a finding of professional misconduct under section (II), the Board directs the Licensee's shop owner to participate in (20) hours of program(s) of continuing education in the areas of sanitation, sterilization, disinfection, and infection control within thirty (30) days of the signed date of this order. The continuing education may be completed through electronic means or in person. To document successful completion of the program(s), the Licensee shall provide the Board with written documentary proof issued/authored by the program offering the course(s). The documentation should include a grade and number of credit hours. **Whether any program(s) meets the requirements of this section shall be determined by the Board. Therefore, the Licensee is strongly encouraged to seek the Board's pre-approval of program(s) before taking them.** The Board has authorized the Board Chair to pre-approve courses on its behalf, so that the Licensee does not have to wait until a meeting to learn whether coursework he wishes to take is acceptable. The Licensee can submit information about proposed programs to the Board's Administrator, who shall present same to the Board Chair for determination.
- b. The Licensee shall come into compliance with all matters noted in the inspection report dated 8/2/22; including but not limited to licensing, sanitation, and sterilization issues.
- c. The Licensee's shop passes an inspection conducted by a Board inspector. The Licensee shall schedule this inspection with the Board inspector to occur *after* the Licensee has fulfilled sections D.(a) and D.(b) above, at a time that is convenient for the Board inspector.

F. Pursuant to RSA 313-A:22(III)(b) and upon a finding of professional misconduct under section (II), Licensee's license is subject to a period of **PROBATION** for three years commencing from the below signed date of this final order. Any violation of the Board's rules relating to sanitation and hygiene over 100 points within the probationary period shall constitute misconduct pursuant to RSA 313-A:22, and a separate and sufficient basis for further disciplinary action by the Board against the Licensee. The Board is putting Licensee on notice that it may enforce this order specifically using unannounced inspections.

G. Pursuant to RSA 313-A:22(III)(e) and Rule 404, and upon a finding of professional misconduct under section (II), the Board affirmatively imposes an administrative fine of \$3747.00, representing the cumulative point values for the violations noted in the 8/2/22 inspection report. Said administrative fine is assessed after hearing pursuant to Rule 404.11

H. Pursuant to RSA 332-G:11, the Board affirmatively assesses Licensee Cindy Ho, as a licensee and owner of shop license #5025, the reasonable cost of investigation and prosecution of this disciplinary proceeding in the amount of \$250.00.

I. The \$3747.00 administrative fine shall be paid within 180 days of the below signed date of this final order.

J. The \$250.00 fine shall be paid within 30 days of the below signed dated of this final order.

K. Pursuant to RSA 313-A:22(g), if Licensee fails to comply with any terms or conditions imposed by this Final Decision, said failure shall constitute misconduct pursuant to RSA 313-A:22, and a separate and sufficient basis for further disciplinary action by the Board against the Licensee.

L. In determining what sanctions to impose, the Board considered RSA 313-A:22 and the factors enumerated in Rule 402.01(d).

M. Pursuant to RSA 313-A:22 and Rule 402.01(d), the Licensee is subjected to the above-referenced discipline as the minimum sanction that the Board believes will, based on the facts and circumstances of this particular case, both protect the public and deter Licensee and any other licensees from engaging in such misconduct in the future.

N. Per Order of the Board, if reasonably practical, a copy of this Order shall be served on the Licensee, in-hand, by OPLC staff. A copy of this order shall also be sent to the Licensee by certified mail, return receipt requested, first class mail, and by email (if reasonably practical).

VI. **CONCLUSION AND DECISION:**

Pursuant to RSA 313-A:22 and Rule 402, the Board hereby **SUSPENDS** Licensee's licenses, and subjects it to further discipline as outlined above.

DATED: ~~4/18/2023~~ 4/17/2023

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

Authorized Representative of the
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