

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

---

**BOARD OF BARBERING, COSMETOLOGY, AND ESTHETICS**

**In Re: Jazzi’s Nail Salon,  
Shop Lic. #2866**

Docket No.: 22-BAR-0034

**Nina Nguyen, Owner  
Personal License #18398**

**FINAL DECISION AND  
ORDER– 2/13/23**

---

**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  
Nina Nguyen, Licensee and Shop Owner  
Collin Phillips, Esq., OPLC Prosecutor  
Sandra Hodgdon, Inspector for OPLC

**II. CASE SUMMARY/PROCEDURAL HISTORY:**

On 08/25/22, in response to an 05/24/22 complaint alleging sanitation issues, 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 a follow-up inspection of Jazzi’s Nail Salon (“Licensee”) and assessed 5,731 violation points for multiple hygiene, safety, and license related violations found on the premises. After investigation and review, the Board voted to commence this adjudicative proceeding on 10/17/22. After providing the Licensee with notice, the adjudicatory hearing was held 2/13/23. 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. (15) Exhibits were submitted by Hearing Counsel, numbered as follows:

Prosecution's Exhibits

1. Complaint dated 5/24/22
2. Inspection memo dated 8/31/22
3. Inspection report with photos 8/25/22
4. Change of owner application 7/19/2010
5. New owner inspection 8/3/10
6. New location and name inspection 1/20/16
7. 4/14/21 routine inspection
8. 1/15/20 routine inspection
9. 1/15/20 inspection memo
10. 5/15/19 complaint inspection
11. 9/14/16 routine inspection
12. 9/19/15 routine inspection
13. 3/6/15 routine inspection
14. 12/3/13 routine inspection
15. 3/15/13 routine inspection form

b. (1) Exhibit was submitted by Licensee/Shop Owner, in response to Hearing Counsel's identified Exhibit, numbered as follows.

Defendant's Exhibits

A. Letter from a customer

c. Testimony was received from:

1. Sandra Hodgdon, Inspector (Offer of Proof)
2. Nina Nguyen, Shop Owner and Licensee
3. Kan Sai Chanthabilay (Licensee's Husband)

**IV. CONDUCT OF THE HEARING AND EVIDENCE PRESENTED:**

The Licensee appeared for the hearing through its authorized representative/shop owner, Nina Nguyen. 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 (15) Exhibits by agreement of the parties. The Licensee submitted (1) Exhibit. All Exhibits were admitted without

objection. Hearing Counsel called OPLC Inspector Sandra Hodgdon to testify and made an offer of proof on her behalf. The Licensee and her husband testified in response.

**Sandra Hodgdon, OPLC Inspector**

Sandra Hodgdon was sworn, and Hearing Counsel made an offer of proof on her behalf. The offer of proof is summarized as follows. Sandra Hodgson is an inspector for OPLC Enforcement. On 5/24/2022, OPLC Enforcement received a complaint alleging sanitation violations at Jazzi's Nails. Inspector Hodgdon performed a follow up inspection of Jazzi's Nails on 08/25/2022. She detailed several health violations including a dirty foot spa agitator; missing record of cleaning for six (6) pedicure chairs; six (6) dirty manicure tables; thirty-three (33) metal implements that were uncleaned, not disinfected, and stored improperly; forty-two (42) improperly disposed one-time use implements; depleted and expired first aid supplies; missing safety data sheets; and nine (9) bladed rasp files present in the shop. She also testified to the improper posting of licenses and the improper display of an apprentice license by Elle Le apprentice #29767. The total assessed points for those violations is 5,731. The offer concluded by highlighting the Licensee's prior disciplinary history which is represented in Hearings Counsel's Exhibits. *See Exhibits 7-15.*

Upon cross examination Inspector Hodgdon stated that she did not take pictures of all the alleged 42 improperly disposed of implements.

Upon re-direct Inspector Hodgdon testified she has been acquainted with the Licensee for about 10 years through her job as an Inspector. She testified to some underlying tension between herself and the Licensee and further identified the Licensee is very uncooperative. She further testified that she was given much difficulty by the Licensee and staff in conducting her inspection on 08/25/2022. Specifically, that she was blocked from doing her job at points and that she generally received poor treatment.

### **Nina Nguyen, Licensee and Shop Owner**

Ms. Nguyen, Licensee Shop Owner, was sworn in under oath and testified. Ms. Nguyen testified that she has been acquainted with Inspector Sandra Hodgdon for about 10 years through her work at Jazzie Nails and other salons. She testified to her experience during the inspection on 8/25/22 and her experiences being inspected generally. She detailed several points of disagreement with Inspector Hodgdon's report and testimony. Specifically, she took issue with Inspector Hodgdon's assessment that the sanders shown on page HC 020 of the 8/25/22 inspection report (Ex. #3) were used. She argued that this specific type of sander is in fact white when unused, and that Inspector Hodgdon incorrectly assumed them to be used based on their color. Further, Ms. Nguyen testified that Inspector Hodgdon in both her report and testimony overstated the number of one-time use implements that had not been properly disposed. She went on to testify that several infractions Inspector Hodgdon noted, including some of the improperly disposed of one-time use implements, were unfair as Inspector Hodgdon opened boxes meant only for the personal use of employees and not for use on clients. Ms. Nguyen went on to testify at length regarding her desire to pass inspection, fully understand the requirements, and the difficulty she's had understanding the Board's rules despite repeated efforts. Specifically, Ms. Nguyen testified that she would like to take classes to ensure that she understands what is required by the Board and expressed frustration that, from her point of view, the Board's rules change without notifying licensees.

### **Kan Sai Chanthabilay, Licensee's Husband**

Mr. Chanthabilay was sworn and testified on his wife's behalf. He reiterated the couple's frustration with the inspection process as it relates to the lack of notification regarding rule changes. Mr. Chanthabilay did acknowledge upon cross-examination that he is not a licensee, he does not work at the salon, and the last inspection he was present for was in 2010 at a prior establishment.

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 Exhibits and witness testimony adequately support the conclusions that 1) a majority of the 8/25/22 shop violations noted by Ms. Hodgdon at Jazzi's Nails occurred (exceptions noted in Paragraph B below); 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 8/25/22, Licensee, Nina Nguyen was the holder of the shop license for Jazzi Nails in Milford, New Hampshire. *See* Exhibits 2, 3, 4, 5, 6, 7, 8, 10, and 11 and testimony of Sandra Hodgdon.
- 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 8/25/22, operating a shop with 1) multiple health code violations pertaining to: a dirty foot spa agitator; missing record of cleaning for six (6) pedicure chairs; six (6) dirty manicure tables; thirty-three (33) metal implements that were uncleaned, not disinfected, and stored improperly; twenty-one (21) improperly disposed one-time use implements; and nine (9) rasp files present in the shop.
- C. When making the factual findings represented in Paragraph B above the Board found the Licensee's testimony regarding the one-time use implements and SDS sheets credible. That testimony resulted in the Board reduction of the totaled violations.
- D. The total assessed points for those violations by the Board is 5252.
- E. Upon finding that professional misconduct occurred the Board considered the Licensee's prior conduct. *See* Exhibit's 7 through 15.
- F. 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 #2866 and personal license #18398 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 and manager to participate in (10) 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 8/25/22; 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.

G. 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 two 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.

H. 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 \$5252.00, representing a majority of the cumulative point values for the violations noted in the 8/25/22 inspection report which are notably reduced based upon the credible testimony of the Licensee. Said administrative fine is assessed after hearing pursuant to Rule 404.11

I. Pursuant to RSA 332-G:11, the Board affirmatively assesses Licensee Nina Nguyen, as the manager and owner of shop license #2866, the reasonable cost of investigation and prosecution of this disciplinary proceeding in the amount of \$500.00.

J. The \$5252.00 administrative fine shall be paid within 180 days of the below signed date of this final order.

K. The \$500.00 fine shall be paid within 30 days of the below signed dated of this final order.

L. 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.

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

N. 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.

O. 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: 3/17/2023

/s/ Shane.D. Goulet, Esq.  
Shane D. Goulet, Esq. Hearings Officer  
Authorized Representative of the  
Board of Barbering, Cosmetology, and Esthetics-  
New Hampshire Office of  
Professional Licensure & Certification  
7 Eagle Square  
Concord, NH 03301