

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

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**BOARD OF BARBERING, COSMETOLOGY AND ESTHETICS**

**In Re: KG Barber Shop  
Shop License # 5259**

**License# 29135**

Docket No.: 23-BAR-033

**Owner: Kevin Guzman**

**NOTICE OF DECISION DATED 4/1/2024**

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Enclosed please find a copy of the Board's Order dated 4/1/2024 relative to:

**DISCIPLINARY HEARING FINAL DECISION AND ORDER**

**PETITIONS FOR REHEARING:**

Pursuant to N.H. Code Admin. Rs. Plc 206.31(b), 206.33 ("Rules") and RSA 310:14, II, petitions for rehearing shall be filed within 30 calendar days after service of a final adjudicative order. Pursuant to Rule 206.31(c) and (d), the Petition shall: 1) clearly identify the respondent, by name and license number, and the docket number of the matter for which the petition is being filed, for rehearing in a disciplinary or non-disciplinary remedial proceeding; 2) clearly state whether the petitioner is seeking to have the decision reversed or modified and, if modified, the specific modification(s) sought; 3) clearly identify the specific findings of fact or conclusions of law, or both, that the petitioner asserts are erroneous; 4) contain such argument in support of the petition as the petitioner desires to present, including an explanation of how substantial justice would be done by granting the relief requested; and 5) be served by the petitioner on all other participants in accordance with Plc 206.11. Pursuant to Rule 206.31(e), the petitioner or petitioner's representative shall sign the petition. Pursuant to Rule 206.31(f), such signature shall constitute attestation that: 1) the signer has read the petition for rehearing; 2) the signer is authorized to file the petition for rehearing; 3) to the best of the signer's knowledge, information, and belief, there are good grounds to support the petition for rehearing; and 4) the petition for rehearing has not been filed solely or primarily for purposes of delay or harassment in any pending or contemplated administrative, civil, or criminal proceeding. Pursuant to Rule 206.31(g), no answer to a petition for rehearing shall be required, but any answer or objection filed shall be delivered to the presiding officer's office within 5 working days following receipt of service of the petition for rehearing. Pursuant to RSA 541:5, upon the filing of such petition for rehearing, the Board or Presiding Officer shall within ten days either grant or deny the same, or suspend the order or decision complained of pending further consideration, and any order of suspension may be upon such terms and conditions as the Board or Presiding Officer may prescribe. The Presiding Officer and/or Board shall rule upon a Motion for Rehearing in accordance with Rule 206.32. Pursuant to Rule 206.32(e), a decision on reconsideration shall be issued after fully considering the petition and any

responses thereto, which reconsideration shall include a hearing on the factual issues identified in the motion if the board determines a hearing to be necessary to a full consideration of the facts.

**RIGHT TO APPEAL:**

Pursuant to RSA 310:14, III, appeals from a decision on a petition for rehearing shall be by appeal to the New Hampshire Supreme Court pursuant to RSA 541. Pursuant to RSA 541:6, within 30 days after the application for a rehearing is denied, or, if the application is granted, then within thirty days after the decision on such rehearing, the applicant may appeal by petition to the New Hampshire Supreme Court. Pursuant to RSA 310:14, III, no sanction shall be stayed by the Board during an appeal. *See also* Rule 206.33.

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**In Re: KG Barber Shop  
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**Owner: Kevin Guzman  
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Docket No.: 23-BAR-033

**FINAL DECISION AND ORDER – 02/20/24**

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**I. PARTICIPANTS:**

Board Members and Support Staff and Counsel:

Sarah J. Partridge, Board Member  
Donna Woodsom, Board Member  
Sara Joe, Board Member

Teresa Boyer, OPLC Board Administrator  
Carson Hansford, OPLC Board Administrator  
Elizabeth Eaton, OPLC Board Counsel

Presiding Officer:

Attorney Nikolas Frye, OPLC Administrative Law Judge

Parties:

Marissa Schuetz, Esq., Hearing Counsel  
KG Barbershop and Kevin Guzman, Licensee and shop owner

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

On 05/11/23 the Office of Professional Licensure and Certification, Division of Enforcement (“OPLC Enforcement”), acting on behalf of the New Hampshire Board of Barbering, Cosmetology, and Esthetics (“Board”), conducted a routine inspection of KG Barber Shop (“Licensee”), which resulted in

1,904 points for alleged licensing and health and safety violations. A follow-up investigation revealed that the Licensee was, at the time of inspection, on probation under the terms of a 07/18/22 settlement agreement in case #2021-ENF-KG BARBERSHOP-1017. On 08/21/23 the Board voted to initiate a disciplinary adjudicative proceeding in this matter. This Final Order and Decision follows.

**III. SUMMARY OF THE PROPOSED EVIDENCE AND EVIDENTIARY RULINGS:**

The Board received the following evidence pursuant to RSA 541-A:33 and Rules 206.22 and 206.18(d):

A. Exhibits were submitted by Hearing Counsel, numbered as follows:

Exhibit 1	July 27, 2023 Inspection Memorandum	HC001
Exhibit 2	May 11, 2023 Inspection Report	HC004
Exhibit 3	May 2022 Settlement Agreement	HC018
Exhibit 4	April 18, 2019 Inspection Report	HC024
Exhibit 5	March 5, 2020 Inspection Report	HC025
Exhibit 6	September 16, 2021 Inspection Report	HC026
Exhibit 7	December 1, 2022 New Shop Inspection	HC027
Exhibit 8	New Shop Application form October 12, 2022	HC028

B. Exhibits were submitted by the Licensee, labeled as follows:

A.

C. Sworn testimony was received from:

1. Sandra Hodgdon, OPLC Chief Board Inspector (called by Hearing Counsel)
2. Kevin Guzman, Licensee and shop owner (called by Licensee)

Exhibits were fully admitted by the Presiding after a prehearing conference.

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

The hearing was then held pursuant to RSA 310:10 with the burden of proof, by a preponderance of the evidence, placed upon Hearing Counsel. *See* Rule 206.07(e). The issues before the Board were:

- (1) Whether or not the Licensee violated RSA 313-A:22, II(c), RSA 313-A:22, II(d), and/or RSA 313-A:22, II(i) (*see* Rules 302.05(h), 302.07(c)(1), (3), (4), 501.01, and/or 501.02(a) and (e)) by allegedly operating a shop with one or more of the related health and safety violations, as set out in the inspection report, dated 5/11/2023.
- (2) Whether or not the Licensee violated RSA 313-A:22, II(c) and/or RSA 313-A:22, II(i) (*see* Rules 501.01, 501.02(a) and (h), RSA 313-A:17, and/or RSA 313-A:9) by allegedly operating a shop with one or more of the related licensing violations, as set out in the inspection report and/or memorandum, dated 5/11/2023.
- (3) Whether or not the Licensee violated RSA 313-A:22, II(c) and/or RSA 313-A:22, II(i) (*see* Rules 404.01(c), 501.01, 501.02(a) (b), and/or (d)) by behaving unprofessionally, as set out in the inspection report, dated 5/11/2023.
- (4) Whether or not the Licensee violated RSA 313-A:22, II(c) and/or RSA 313-A:22, II(i) (*see* Rules 501.01, 501.02(a) and (c), and/or 404.10(b)) by allegedly failing to comply with a Settlement Agreement adopted by the Board as an Order, as set out in the inspection report, dated 5/11/2023.
- (5) If the Board makes a finding of misconduct pursuant to issue (1), (2), (3), and/or (4) above, whether the Licensee has committed professional misconduct as defined at RSA 313-A:22, II(g) by allegedly violating provisions of this chapter repeatedly when considering the Licensee's disciplinary history.
- (6) If the Board makes a finding of misconduct pursuant to issue(s) (1), (2), (3), (4), and/or (5) above, whether and to what extent the Licensee should be subject to discipline pursuant to RSA 313-A:22, III, Rule 402, and/or Rule 404.
- (7) Whether and to what extent the Licensee should be subject to discipline pursuant to RSA 313-A:22, III, N.H. Code Admin. R. Bar. 402 and/or RSA 310-A:1-m/RSA 310:12.

NOH at II.(c).

The Board then heard evidence related to these inquiries as summarized below.

**HEARING COUNSEL'S CASE-IN-CHIEF:**

**Sandra Hodgdon, OPLC Chief Board Inspector:**

Sandra Hodgdon testified that she conducted a routine inspection of KG Barbershop's location on 05/11/23 and assessed 1,904 violation points. Ms. Hodgdon testified to the various sanitation, hygiene, and safety issues she noted during her inspection and identified that three barber stations were set up with appliances for barbering and business cards for individuals that do not have a New Hampshire barbering license. Ms. Hodgdon also reviewed the past inspections she has conducted at KG's Barbershop. According to her testimony she has been there several times and found similar sanitation and hygiene problems. She also mentioned that she has occasionally found issues with unlicensed individuals or individuals with expired licenses. Ms. Hodgdon said that there was a 2022 settlement agreement between the Board and Licensee that prohibited the Licensee from having future inspections with over 100 points assessed. She claimed that the OPLC database showed that the \$500 administrative fine assessed pursuant to the 2022 settlement agreement showed as still unpaid.

On cross examination, Ms. Hodgdon agreed that no one was working at the shop at the time she inspected it, even though the stations appeared to be set up for individuals who were unlicensed.

**LICENSEE'S CASE-IN-CHIEF:**

**Kevin Guzman, shop owner and Licensee**

Mr. Guzman acknowledged that he had stations set up for individuals to get barbering services but claimed the individuals whose names were on the cards were not working at the shop. He stated that he was aware they had licensing issues and prohibited those individuals from working at the shop until those problems were corrected. With respect to the sanitation issues, he testified that he was using his station and when working in the moment it will be dirty. He claimed that he made efforts to get his shop license renewed but the OPLC system was always down when he tried. He said that he called OPLC but no one would answer. He stated the day Ms. Hodgdon inspected, he fixed the situation immediately with her assistance.

On cross examination, he testified he has been barbering for 10 years. He acknowledged his license had expired on 01/31/23 and Ms. Hodgdon's inspection occurred in May of 2023. The Licensee clarified he was traveling a lot at the time of renewal. He also explained that he had a few kids and it was thus difficult for him to come to OPLC in-person to renew. The Licensee also reviewed the 2022 settlement agreement and acknowledged he signed it. He explained that he was unaware that the 2022 settlement agreement was still in effect. He explained that he had been under the terms of another settlement agreement since and thought that agreement replaced the terms of the 2022 one.

**V. DISCUSSION, FINDINGS OF FACTS, AND CONCLUSIONS OF LAW:**

After reviewing all the evidence and considering the presentation and demeanor of all the witnesses, the Board makes the following findings of facts:

1. The Licensee has held a barber license since 2015, a barber instructor license since 2023, and the shop license for KG Barber Shop since 2022.
2. On 5/11/23, Chief Inspector Sandra Hodgdon conducted a routine inspection resulting in sanitation violations and licensing violations.
3. Specifically, Inspector Hodgdon found dirty implements among 4 workstations. Also on the workstations were business cards among the other barbering equipment.
4. No one was present and working who did not have a license. The Licensee acknowledged that his licenses had expired.
5. The Licensee was attempting to renew his license during a period that the OPLC was experiencing technical difficulties affecting many licensees. When the Licensee received a renewal code by email immediately after the inspection, he was able to renew easily.
6. The Licensee explained that at the time of the inspection, one of the employees with an expired license had been suspended until the license was properly active.
7. The Licensee's brother was in the shop but does not work there. He runs the Licensee's auto shop next door.
8. The Licensee argued that he was using his station, and that was why it was not clean. Inspector Hodgdon, however, stated no customers were in the shop at the time of the inspection.

9. The Licensee stated he believed the new settlement agreement negated the old agreement, and that is why he failed to comply with the older agreement. He stated also that he did not know what class to take to fulfill the continuing education requirement.

Based upon the findings of fact made by the Board, the Presiding Officer makes the following conclusions of law:

1. The Licensee engaged in professional misconduct as defined at RSA 313-A:22, II(c), RSA 313-A:22, II(d), and RSA 313-A:22, II(i) (see Rules 302.05(h), 302.07(c)(1), (3), (4), 501.01, and/or 501.02(a) and (e)) by operating a shop with the health and safety violations set out in the inspection report, dated 05/11/23.
2. The Licensee did not engage in professional misconduct as defined at RSA 313-A:22, II(c) and RSA 313-A:22, II(i) (see Rules 501.01, 501.02(a) and (h), RSA 313-A:17, and/or RSA 313-A:9) by allegedly operating a shop with one or more of the related licensing violations set out in the inspection report and memorandum, dated 05/11/23. As is evident from the Board's findings of fact 4, 6, and 7, the evidence was insufficient to establish that it was "... more probable than not to be true...", Jus 802.01(i), that there were three unlicensed barbers working for the Licensee. Further, the Board has recommended dismissal of all alleged licensing violations noted in the inspection report dated 05/11/23, despite its finding of facts in paragraphs 4 and 5. Given the aforementioned and finding of fact 5, the Presiding Officer declines to conclude the Licensee Kevin Guzman has engaged in unlicensed and unauthorized practice of barbering as defined in RSA 310:13 because Hearing Counsel did not request such an issue presented to be considered by the Board.
3. The Licensee did not engage in professional misconduct as defined at RSA 313-A:22, II(c) and RSA 313-A:22, II(i) (see Rules 404.01(c), 501.01, 501.02(a) (b), and/or (d)) by behaving unprofessionally, as set out in the inspection report, dated 05/11/23. As is evident from the findings of fact, the evidence presented was insufficient to establish that was "... more probable than not to be true...", Jus 802.01(i).
4. The Licensee engaged in professional misconduct as defined at RSA 313-A:22, II(c) and RSA 313-A:22, II(i) (see Rules 501.01, 501.02(a) and (c), and/or 404.10(b)) by failing to comply with a Settlement Agreement adopted by the Board as an Order, as set out in the inspection report, dated 05/11/2023. Regardless of whether the Licensee misunderstood how an older and newer settlement agreement work together, he was subject to the terms of both agreements and did not comply with the continuing education requirement of the first.
5. The Licensee has engaged in professional misconduct as defined at RSA 313-A:22, II(g) by allegedly violating provisions of this chapter repeatedly when considering the Licensee's disciplinary history. Findings of Fact 1-8, when read in conjunction with Finding of Fact 9, establish this finding of professional misconduct.



Upon a finding of misconduct made pursuant to RSA 319-C:12, II, the Board imposes the following disciplinary action against the Licensee:

- A. Pursuant to RSA 310:12, I(a), the Licensee KG Barbershop is **REPRIMANDED**.
- B. Pursuant to RSA 310:12, I(d)(1) the Licensee KG Barbershop is placed on **PROBATION** for a period of two years commencing from the signed date of this order.
- C. Pursuant to RSA 310:12, I(d)(2), the Licensee KG Barbershop shall have its owner Kevin Guzman attend 10 hours of sanitation/disinfection **CONTINUING EDUCATION** coursework. To document successful completion of the course(s), the Licensee shall provide the Board with written documentary proof issued/authored by the program offering the course(s). 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's 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 Hearings Clerk ([hearingsclerk@oplc.nh.gov](mailto:hearingsclerk@oplc.nh.gov)), who shall present same to the Board Chair for determination.
- D. Pursuant to RSA 310:12, I(d)(1), after completion of the continuing education coursework, the Licensee KG Barbershop shall request and be subject to a **PROBATIONARY REINSPECTION** of its premises by OPLC Board inspector(s).
- E. Pursuant to RSA 310:12, I(e), the Board assesses a new \$500.00 **ADMINISTRATIVE FINE** against the Licensee KG Barbershop, payable to the State of New Hampshire through the Office of Professional Licensure and Certification.

**VI. CONCLUSION AND DECISION:**

Pursuant to RSA 310:10 and RSA 310:12, the Presiding Officer hereby makes the findings of professional misconduct noted herein and the Board administers the discipline outlined above.

DATED: 4/1/2024

\_\_\_\_\_/s/ Nikolas K. Frye, Presiding Officer\_\_\_\_\_  
Nikolas K. Frye, Administrative Law Judge  
New Hampshire Office of  
Professional Licensure & Certification  
7 Eagle Square  
Concord, NH 03301