

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

---

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

**In Re: Soft Touch Nails and Spa,  
Shop Lic. #4298  
Liem Duong, Owner  
Personal Lic.# 32694**

Docket No.: 22-BAR-0021

**FINAL DECISION AND  
ORDER– 5/15/23**

---

**I. ATTENDEES:**

Jeanne Chappell, Board Chair  
Kimberly A. Hannon, Board Member  
Sarah Partridge, Board Member  
Donna Woodsom, Board Member  
Teresa Boyer, Board Administrator  
Talia Wilson, Board Administrator  
Elizabeth Eaton, Esq., Board Counsel  
Shane D. Goulet, Esq., OPLC Hearings Officer  
Liem Duong, Shop Owner  
Sau Tran, Manager and Witness  
Ms. Lee, Translator  
John Garrigan, Esq., OPLC Prosecutor  
Sandra Hodgdon, Inspector for OPLC

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

On 06/16/22, 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 a routine inspection of Soft Touch Nails and Spa (“Licensee”) and assessed 1,943 violation points for multiple hygiene and safety related violations, as well as licensing issues found on the premises. After further investigation by OPLC, the Board voted to commence this adjudicative proceeding on 08/15/22. On 3/20/2023 the Licensee appeared for his hearing which was continued by

the Presiding Officer to allow for the appointment of a translator. A new Notice of Hearing issued. On 5/15/23, an adjudicative hearing was held. 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. (6) Exhibits were submitted by Hearing Counsel, numbered as follows:

#### Prosecution's Exhibits

1. Sandra Hodgdon Confidential Memorandum, dated July 20, 2022 (Bates #HC001-002, 042)
2. Shop Inspection Report, dated June 16, 2022 (Bates #HC003-005)
3. Inspection photographs, dated June 16, 2022 (Bates #HC006-034) \*\*\*Private information redacted pursuant to RSA 91-A:5, IV.
4. Shop inspection report, dated May 14, 2018 (Bates #HC035)
5. Shop Application, dated May 8, 2018 (Bates #HC036-040) \*\*\*Private information redacted pursuant to RSA 91-A:5, IV
6. Shop inspection report, dated February 15, 2019 (Bates #HC041)

b. (0) Exhibits was submitted by Licensee/Shop Owner, in response to Hearing Counsel's identified Exhibit, numbered as follows.

#### Defendant's Exhibits

c. Testimony was received from:

1. Sandra Hodgdon, Inspector (Offer of Proof)
2. Liem Duong, Shop Owner
3. Sau Tran, Manager

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

The Licensee appeared for the hearing through its authorized representative/shop owner, Liem Duong. Pursuant to Rule 211.02(a), Hearing Counsel had the burden of proving its case by a preponderance of the evidence. The Presiding Officer admitted Hearing Counsel's (6) Exhibits by agreement of the parties. The Licensee submitted (0) Exhibits. Inspector Sandra Hodgdon was called to testify to affirm Hearing Counsel's written offer of proof.<sup>1</sup> Sau Tran and Liem Duong testified on behalf

---

<sup>1</sup> Hearing Counsel motioned to correct the date listed in paragraph 9 of his Findings of Fact from May 21, 2018, to February 15, 2019.

of the Licensee. Inspector Sandra Hodgdon was called again as a rebuttal witness after Sau Tran and Liem Duong testimony had been received.

**Sandra Hodgdon, Inspector (Offer of Proof)**

Sandra Hodgdon was sworn in and testified that she has reviewed Hearing Counsel’s Proposed Findings of Fact and stated on the record that they were true and accurate to the best of her knowledge and belief.<sup>2</sup>

**Rebuttal Testimony Sandra Hodgdon**

Inspector Hodgdon was recalled and testified that she inspected all 12 tables. She clarified that the foot spa agitators referenced in the inspection report were found by her at the base of the spa chairs.

**Liem Duong, Shop Owner**

Liem Duong was sworn in and testified, by and through the interpreter, that he is the owner of Soft Touch Nails and Spa. He first drew the Board’s attention to Exhibit 3. He testified that two of the employees whose licenses are seen in the photograph were no longer working for the shop at the time of the inspection and that those licenses were on display by mistake. He further referenced Exhibit 4 and testified that Inspector Hodgdon had only inspected 2 of the shop’s 12 tables and yet cited violations at all 12 tables in the salon. He testified that his security camera footage would support his claim.<sup>3</sup> He also stated that one employee had a nail license in California, and she is waiting on the process to change it to N.H. When he found out she didn’t have N.H. license she was let go. Mr. Duong further stated that he has a lot of foot spa agitators and those were not being used and were taken from the back of the salon.

**Sau T. Tran, Shop Manager**

Sau Tran was sworn in and testified, by and through the interpreter, that she is the manager of Soft Touch Nails and Spa. She generally testified in support of Mr. Duong and the shops practices. She

---

<sup>2</sup> See Hearing Counsel’s Proposed Findings of Fact, Conclusions of Law, and Recommended Sanctions, dated 1/20/23

<sup>3</sup> The Licensee elected not to submit this footage as an exhibit.

represented that many of the violations noted within Inspector Hodgdon's 06/16/2022 report were incorrect.

**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 finds the following facts and conclusions of law and adopts Hearing Counsels Findings of Facts, Conclusions of Law, and Recommended Sanctions as amended herein.

1. Soft Touch Nails is located at 334 Central St in Franklin. Exh 2, pg HC003; Exh 5.
2. Soft Touch Nails is owned by licensee Liem Duong. Exh 2, pg HC003; Exh 5.
3. Soft Touch Nails has been open since 2018. Exh 1, pg HC002; Exh 4; Exh 5.
4. On or about June 16, 2022, Inspector Sandy Hodgdon performed a routine inspection at Soft Touch Nails. Exh 1, pg HC001; Exh 2, pg HC003.
5. Inspector Hodgdon observed and noted the following violations of Board health and safety rules:
  - a. The floors, walls, woodwork, and furniture were dirty and dusty. Exh 1, pg HC001; Exh2, pgs HC003, 005; Exh 3, pgs HC010, 012-015, 018-022, 024-025.
  - b. 3 dirty foot spa agitators with hair and debris in them. Exh 1, pg HC002; Exh 2, pg2 HC003; Exh 3, pg HC011.
  - c. 12 tables were not properly cleaned or disinfected. Exh 1, pg HC002; Exh 2, pgs HC003, 005; Exh 3, pgs HC008-009, 012-015, 018-022, 024-025.
  - d. 26 dirty metal implements that had skin debris on them. Exh 1, pg HC002; Exh 2, pg HC003; Exh 3, pgs HC016-017, 023.
  - e. 9 licenses were not posted properly. Exh 1, pg HC002; Exh 2, pg HC003; Exh 3, pgs HC026-030.
  - f. 2 workers, Nina Truong and Hang Thi Tran, had expired licenses. Exh 1, pg HC002; Exh 2, pg HC003-004; Exh 3, pgs HC027-028.

- g. 1 license did not have a photograph. Exh 1, pg HC002; Exh 2, pgs HC003, 005; Exh 3, pg HC029.
  - h. Last inspection report was not properly displayed. Exh 1, pg HC002; Exh 2, pgs HC003, 005.
  - i. 1 bottle of a substance containing Methyl Methacrylate. Exh 1, pg HC002; Exh 2, pg HC004; Exh 3, pgs HC032-033.
  - j. The shop only had safety data sheets for a few products. Exh 1, pg HC002; Exh 2, pg HC003-004.
  - k. Paraffin wax had floating debris and a used applicator in it. Exh 1, pg HC002; Exh 2, pg HC003-004; Exh 3, pg HC034.
6. Additionally, Inspector Hodgdon encountered one unlicensed individual, Tuyet D. Vo performing services on a client. Ms. Vo explained to inspector Hodgdon that she did not have an NH drivers license. Ms. Vo produced an expired temporary California drivers license with no photograph. Exh 1, pg HC001; Exh 2, pg HC004; Exh 3, pg HC006.
7. Additionally, Inspector Hodgdon observed employees throwing items away during the inspection. Exh 1, pg HC002; Exh 2, pg HC004; Exh 3, pg HC007.
8. In total, Inspector Hodgdon assessed 1943 violation points. Exh 2, pg HC004.
9. One past routine inspection occurred on February 15, 2019. That inspection resulted in a fine of \$554 for dirty pedicure chairs, improperly cleaned and stored metal implements, and improperly discarded non-reusable implements. Exh 1, pg HC002; Exh 6.

#### **CONCLUSIONS OF LAW**

10. 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 404.09, 302.05, and/or 302.07) by operating a shop with one or more of the related health and safety violations, as set out in the inspection report, dated 06/16/22.
11. The Licensee violated RSA 313-A:22, II(c) and/or RSA 313-A:22, II(i) (see Rule 404.09, Rule 404.01(c) and (n), Rule 302.07(y), RSA 313-A:17, and/or RSA 313-A:19) by allegedly operating

a shop with; 1) unlicensed individuals providing services requiring a licensure; 2) license(s) displayed without photograph(s) of the licensee(s); and 3) not displaying the most recent shop inspection report, as set out in the inspection report, dated 06/16/22.

## **SANCTIONS**

12. The Board imposes the following sanctions:

a. Pursuant to RSA 313-A:22(III)(b), and upon a finding of professional misconduct, the Board SUSPENDS Licensee's shop license #4298 and personal license #32694 until the following occurs:

i. Pursuant to RSA 313-A:22(III)(d) and upon a finding of professional misconduct, the Board directs the Licensee shop owner 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).

ii. The Licensee shall come into compliance with all matters noted in the inspection report dated 6/16/2022; including but not limited to licensing, sanitation, and sterilization issues.

iii. 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 i and ii above, at a time that is convenient for the Board inspector.

b. Pursuant to RSA 313-A:22(III)(b) and upon a finding of professional misconduct, Licensees licenses are subject to a period of PROBATION for three years commencing from the date of the Board's 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 Licensees. The Board may enforce this order specifically using unannounced inspections.

c. 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 \$1,943.00, representing the cumulative point value for the violations noted in the 6/16/2022 inspection report.

d. Pursuant to RSA 332-G:11, the Board affirmatively assesses Licensee Liem Duong, as the owner of shop license #4298, the reasonable cost of investigation and prosecution of this disciplinary proceeding in the amount of \$500.00.

e. The \$1,943.00 administrative fine shall be paid within 180 days of the Board's final order.

f. The \$500.00 fine shall be paid within 30 days of the Board's final order.

**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: 6/27/2023

/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