

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

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

**In Re:  
VIP Salon OK Nails,  
Shop License #3370**

**Uyenh Quach, Owner  
Unlicensed**

**Quang Luu,  
Manicurist Lic. # 33564**

Docket No.: 22-BAR-018

**FINAL DECISION AND  
ORDER– 12/19/22**

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**I. ATTENDEES:**

Kimberly A. Hannon, Board Member and Acting Chair  
Sarah Partridge, Board Member  
Donna Woodsom, Board Member  
Ann Dalton, Board Member  
Talia Wilson, Board Administrator  
Tracey Pappas, Board Administrator  
Sheri Phillips, Esq., Board Counsel  
Nikolas K. Frye, Esq. Presiding Officer  
Marissa Schuetz, Esq., Hearing Counsel  
Quang Luu, Licensee Shop Owner  
Sandra Hodgdon, Investigator for OPLC and Witness

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

On 07/07/22, 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 VIP Salon OK Nails (“Licensee”), during which it assessed 1,126 violation points for multiple hygiene, safety, and license related violations found on the premises. After further investigation by OPLC, the Board voted to commence this adjudicative proceeding on 08/15/22.

After providing the Licensee with notice, the adjudicatory hearing was held 12/19/22. 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. Exhibits were submitted by Hearing Counsel, numbered as follows:

1. Inspection Report, 07/07/22

b. No Exhibits were submitted by Licensee.

c. Testimony was received from:

1. Sandra Hodgdon, Investigator (called by Hearing Counsel)

2. Quang Luu, Licensee Shop Owner (called by Licensee)

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

The Licensee appeared for the hearing through its authorized representative/shop owner, Quang Luu. 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 all of Hearing Counsel's evidentiary exhibits on an individual basis after they were authenticated through testimony and Licensee was provided the opportunity to object to each. Hearing Counsel called one witness. Licensee stated that he had no documentary exhibits and called himself as a witness. The credible evidence presented at the hearing allows the Board to find the following facts.

**Sandra Hodgdon, OPLC Investigator**

Sandra Hodgdon was sworn and testified that she is an investigator for OPLC Enforcement. She explained that in her role as an investigator, she became acquainted with the Licensee through conducting inspections. Ms. Hodgdon authenticated Exhibit 1, which is her inspection report dated 07/07/22 for the Licensee's shop premises. She testified that she found the violations contained in the inspection report when she observed the Licensee's premises. According to her testimony, Ms. Hodgdon reviewed with

the Licensee the concerns noted in her report and how to correct them during a walk-through of the shop, because he was present during the inspection. She described the conversation as pleasant, professional, and kind. Ms. Hodgdon also reviewed pictures she had taken of the shop premises on 07/07/22. Her testimony revealed that the pictures show, among other things, drawers with nail dust and implements and dirty foot spa agitators. In addition to the concerns illustrated in the pictures, Ms. Hodgdon noted that the Licensee also had a license posted without a photograph of the licensee and a first aid kit with expired antibiotic cream. Ms. Hodgdon indicated that the Licensee had past violations through the Board for similar conduct, including dirty implements and foot spas. Hearing Counsel asked the Board to take administrative notice of its past disciplinary action against the Licensee, which it did.

**Quang Luu, Licensee Shop Owner**

Quang Luu, Licensee Shop Owner, was sworn in under oath and testified. He stated that he had a first aid kit but had not used it in a while. He acknowledged not paying attention to the fact that the antibiotic cream was expired and requested the Board dismiss that violation. On cross examination, he testified he became owner of the shop in 2017 and at that time had signed a form acknowledging he knew the Board rules. He explained that he was familiar with the Board's rules.

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

After reviewing all the evidence, accounting for the 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 (both as an individual licensee and shop licensee of this Board) committed professional misconduct. The Exhibits and witness testimony more than adequately support the conclusions that 1) the 07/07/22 shop violations noted by Ms. Hodgdon at VIP Salon OK Nails occurred, with the exception of the one involving the first aid kit<sup>1</sup>; 2) the shop owner Licensee was present at the

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<sup>1</sup> There is no Board Rule requiring a shop to have a first aid kit with unexpired contents. See Rules 404.09(i) and 302.07(f).

shop and working on 09/07/22; and 3) the Licensee shop and Licensee shop owner have a history of making the same and/or similar violations. As part of this decision, and based upon the evidence presented and the findings of facts made herein the Board draws the conclusions of law:

A. The Licensee shop owner and shop committed misconduct as defined at RSA 313-A:22, II(c)(See Rules 404.09(h), 404.09(a)) by operating and working in a shop with the following health and safety violations, as set out in the inspection report, dated 07/07/22: 7 dirty agitators, 9 dirty implements not disinfected or properly stored, and 12 implements not disposed of after each use and in a closed container.

B. The Licensee shop owner and shop committed misconduct as defined at RSA 313-A:22, II(d)(See Rules 404.09(f), 404.09(a)) by operating and working in a shop with the following health and safety violations, as set out in the inspection report, dated 07/07/22: 7 dirty agitators, 9 dirty implements not disinfected or properly stored, and 12 implements not disposed of after each use and in a closed container.

C. The Licensee shop owner and shop committed misconduct as defined at RSA 313-A:22, II(g)(See Rules 404.09(h), 404.09(a)) by, despite acknowledging being familiar with applicable Board law, operating and working in a shop with the following health and safety violations, as set out in the inspection report, dated 07/07/22: 7 dirty agitators, 9 dirty implements not disinfected or properly stored, and 12 implements not disposed of after each use and in a closed container.

D. The Licensee shop owner and shop committed misconduct as defined at RSA 313-A:22, II(c)(See Rule 404.09(f)) by operating a shop with a license posted for a licensed employee that had no photograph posted on it.

E. The Licensee shop owner and shop did NOT commit professional misconduct as defined at RSA 313-A:22, II(c), (d), and (g) by having an expired antibiotic cream in the first aid kit.

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 **and** personal licenses (#3370 and #33564) 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 shop owner to participate in 10 hours of program(s) of continuing education in the areas of sanitation and disinfection. 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 Acting 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 Acting Board Chair for determination; and

- b. The Licensee's shop passes an inspection conducted by a Board investigator with no sanitation-related violations. The Licensee shall schedule this inspection with the Board investigator to occur *after* the Licensee has fulfilled sections E.a above, at a time that is convenient for the Board investigator.

G. Pursuant to RSA 313-A:22(III)(b) and upon a finding of professional misconduct under section (II), Licensee's shop and personal licenses (#3370 and #33564) are 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 shop and shop owner. The Board is putting Licensee shop and shop owner 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 \$876.00 against the Licensee's shop license #3370 (representing the cumulative point values for the violations noted in the 07/07/22 inspection report, less the 250 point valuation for the violation of the "First Aid Supplies & Eye Wash Station"). Said administrative fine is assessed after hearing pursuant to Rule 404.11. In doing so the Board considered the Licensee shop owner's 1) continuing noncompliance with the board statutes, rules, and directives; 2) history of noncompliance with RSA 313-A, rules, or directives; and 3) awareness of RSA 313-A and the board's rules through that prior history. The administrative fine shall be paid within 180 days of the below signed date of this final order.

I. Pursuant to RSA 332-G:11, the Board affirmatively assesses against Licensee Quang Luu's personal license #33564 the reasonable cost of investigation and prosecution of this disciplinary proceeding in the amount of \$500.00. The administrative fine and cost of investigation shall be paid within 30 days of the below signed date of this final order.

J. Pursuant to RSA 313-A:22(g), if Licensee shop and shop owner 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 shop and shop owner.

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

L. Pursuant to RSA 313-A:22 and Rule 402.01(d), the Licensee shop and shop owner are 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 shop and shop owner and any other licensees from engaging in such misconduct in the future.

M. 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 also by email (if reasonably practical).

**VI. CONCLUSION AND DECISION:**

Pursuant to RSA 313-A:22 and Rule 402, the Board hereby **SUSPENDS** Licensee's personal and shop licenses (personal license #33564 shop license #3370), and imposes the further discipline as outlined above.

DATED: 12/30/2022

\_\_\_\_\_/s/ Nikolas K. Frye, Esq.\_\_\_\_\_  
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