

Before the  
N. H. Board of Barbering, Cosmetology and Esthetics  
Concord, New Hampshire

In the matter of:

Amber Souther  
Cosmetology License Number 11443  
(Adjudicatory Proceeding, Show Cause Hearing)

Docket No. 2016-07

**DECISION AND ORDER**

**By the Board:** Holly Rodrigues, Chair,  
Christine Infantine, Aaron Losier, Michelle Kapos, Jeanne Chappell,  
Board Members.

**Appearances:** Laurel O'Connor, Hearing Counsel  
Amber Souther, Respondent

**BACKGROUND**

On or about May 23, 2016, the Board received Respondent's renewal application for her cosmetology license. In the renewal application, Respondent answered "yes" to question 1 and provided the Board with a copy of a state prison sentence, terms and conditions of adult probation, and a letter from Probation Officer Al Previte. Based on the most recent and prior criminal convictions, the Board found a reasonable basis for commencing an adjudicatory proceeding pursuant to RSA 313-A:22 and Bar 401.02 to show cause why the Board should renew Respondent's license. The Notice of Hearing noticed the hearing for December 12, 2016 at 10:30am. The Hearing was cancelled due to a snowstorm and rescheduled to January 9, 2017 at 9:45 am. Ms. Souther appeared as scheduled.

**BACKGROUND NARRATIVE**

The Board has the authority to grant cosmetology licenses. See RSA 313-A:11. In 2010, the Board granted the Respondent a license to practice as a cosmetologist in the State of NH.

The Respondent holds cosmetology license #22199. The cosmetology license is the Respondent's personal license.

In November of 2007, the Respondent submitted an Application for Registration as a Student Apprentice to enroll at Empire Beauty School in Portsmouth, NH. The Respondent also submitted a Return from Superior Court stating the Respondent was convicted of Sale of Controlled Drug. In January of 2008, the Board approved the application and the Respondent commenced cosmetology school.

In December of 2009, the Respondent completed cosmetology school. In December 2010, the Respondent was issued cosmetology license #22199. On or about May 23, 2016, the Respondent submitted a renewal application for her cosmetology license with a State Prison Sentence and House of Corrections Sentence detailing a felony conviction for theft in 2014. The Respondent also submitted a letter from her probation officer, Al Previte, stating the Respondent was "sentenced to probation on 07/31/2014 for Willful Concealment (misdemeanor) and Theft by Unauthorized taking (felony)". The letter further stated that the Respondent has been of good behavior and compliant with all terms of probation. The criminal conviction paperwork appeared to be missing pages. On June 17, 2016, the Board office returned the renewal application to the Respondent for a full criminal history release form for the Respondent to complete and return. In August of 2016, the Board received a complete criminal history record. The criminal history record revealed the following:

- A Theft -Willful Concealment arrest on 3/5/14 with finding of guilty by court, 12 months; 6 months suspended for 3 years, probation 2 years, counseling, treatment or educational programs, work release; defendant to be housed at Strafford County Jail &

participate in TC program., sentence amended to authorize work release, restitution to be paid through Dept. of Corr. To Market Basket.

- A Theft By Unauthorized Taking arrest on 3/11/13 with a finding of guilty, 365 days; 335 days suspended, one year probation and good behavior 2 years.
- A Willful Concealment arrest on 2/2/10 with a finding of guilty, HC 12 months with all but 21 days deferred.
- A Conduct After Accident arrest on 11/13/09 with a finding of guilty, good behavior 1 years and a fine of \$1,000.00, \$500.00 suspended.
- A Hindering Apprehension/prosec arrest on 9/25/06 with a finding of guilty, HC 12 months deferred, good behavior, \$500.00 fine.
- A Shoplifting arrest on 10/13/00 with a finding of guilty, fine of \$250.00.
- A violation date of 4/25/14 for Theft By Unauthorized Taking with a finding of guilty, 2-5 years all suspended for 3 years, probation 2 years, good behavior, counseling, treatment or educational programs, waived sentence review upon release from jail.
- A violation date of 9/21/13 for Theft By Unauthorized Taking with a finding of guilty, good behavior 1 year, \$350.00 fine suspended and restitution.
- A violation date of 2/2/10 for Theft By Unauthorized Taking with a finding of guilty, HC 12 months suspended, good behavior 1 year, fine of \$800.00.
- A violation date of 09/22/04 for Controlled Drug Act; Acts Prohibited Description: Sale of Controlled Drug with a finding of guilty, HC 12 months with all but 6 months suspended, probation 1 year, good behavior, \$1,000.00 fine all suspended, restitution.
- A violation date of 8/30/02 for Shoplifting with a finding of guilty, fine of \$150.00.

## RESPONDENT'S CASE

The Respondent testified she had a difficult childhood and has made bad choices in her past. The Respondent further stated she is addressing her drug addiction with therapy and counseling. The Respondent testified she had completed jail time and was no longer on probation. The Respondent's probation officer, Al Previte ("Mr. Previte"), wrote a letter on the Respondent's behalf to the Board stating the Respondent has been of good conduct and has complied with all terms of her probation. Mr. Previte further recommended that the Respondent be able to retain her cosmetology license.

The Respondent submitted a letter from Dr. Andrew Morris which stated the Respondent is a patient at Seacoast Mental Health Center and is keeping her appointments and participating fully in recommended treatment.

The Respondent also testified that all restitution has been paid and that she retains full time employment.

## FINDINGS OF FACT

The Board took into consideration the testimony provided by the Respondent at the hearing. The Board found the Respondent to be forthcoming, sincere and candid. The Board found the above Background Narrative to be true.

## RULINGS OF LAW

The Board makes the following rulings of law:

1. The Board may undertake disciplinary proceedings against its licensees. See RSA 313-A:22. If the Board finds sufficient misconduct pursuant to subsection II, it may impose disciplinary action pursuant to subsection III. See RSA 313-A:22.

2. From 2004 to 2014, the Respondent violated RSA 313-A:22, II (b) by committing professional misconduct by conviction of multiple misdemeanors or felonies.

### DISCUSSION AND CONCLUSION

The Board has the authority to undertake disciplinary action against a licensee after a hearing and a finding that the licensee has committed professional misconduct as described above or has engaged in acts that pose a threat to public health and safety. RSA 313-A:22;Bar 402.01.

The Board concludes the Respondent violated RSA 313-A by conviction of multiple misdemeanors or felonies between 2004 and 2014. The Board also concluded the Respondent has completed all requirements of the court system for her convictions including probation, counseling, and restitution.

### ACTION

**THEREFORE, IT IS ORDERED**, that the Respondent's cosmetology license be renewed with a probationary term of two (2) years.

**IT IS FURTHER ORDERED**, that the Respondent shall be of good professional character during the probationary term. Any violation of RSA 313-A or the Board's Administrative Rules shall result in an automatic 30 day suspension of license. Respondent will have the opportunity to challenge the violation finding at a hearing prior to the suspension being imposed.

**IT IS FURTHER ORDERED**, that the Respondent shall provide at least two reports to the Board from Dr. Andrew Morris or another physician, stating the Respondent is still continuing with recommended treatment during the probationary period.

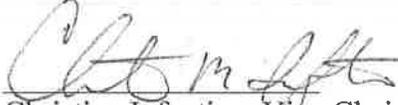
**IT IS FURTHER ORDERED**, that the Respondent's failure to comply with any term of the conditions imposed by this Order shall constitute professional misconduct pursuant to RSA 313-A:22, II (c) and a separate and sufficient basis for further disciplinary action against the licensee.

**IT IS FURTHER ORDERED**, that this order shall become a permanent part of the Respondent's file, which is maintained by the Board as a public document.

**IT IS FURTHER ORDERED**, that this Order shall take effect as an Order of the Board on the date an authorized representative of the Board signs it.

BY ORDER OF THE BOARD

Date 3/13/17

  
Christine Infantine, Vice Chair  
Authorized Representative of the Board