

**STATE OF NEW HAMPSHIRE
BOARD OF BARBERING, COSMETOLOGY AND ESTHETICS
121 SOUTH FRUIT ST
CONCORD, NEW HAMPSHIRE 03301**

In the Matter of:
Adam DuPaul
Personal Barber License Number: 29161
(Adjudicatory Proceedings)

Docket No. 2019-07

DECISION AND ORDER

By the Board: Holly Rodrigues, Chairperson and Presiding Officer
Jeanne Chappell, Board Member
Kimberly Hannon, Board Member
Joshua Craggy, Board Member
Kassie Dubois, Board Member
Dana Pierce, Board Member
Sarah Partridge, Board Member

Appearances: Caitlin Poole, Hearing Counsel
Nicholas Brodich, Counsel for the Respondent

BACKGROUND

In cases where public health, safety or welfare requires emergency action, RSA 313-A:22; RSA 541-A:30, III, and New Hampshire Board of Barbering, Cosmetology and Esthetics Administrative Rule (“Bar”) 402.03 authorize the New Hampshire Board of Barbering, Cosmetology and Esthetics (“Board”) to suspend a license for up to ten working days pending the commencement of an adjudicative proceeding.

On or about August 27, 2019, it was reported to the Board that Adam DuPaul (“Respondent”) had been impaired while cutting hair on or about August 22, 2019. On or about August 22, 2019, Curtis Fanti (“Mr. Fanti”) was at City Barbershop where the Respondent is employed. Mr. Fanti reported to the Board that he believed the Respondent was impaired and had been using drugs. Mr. Fanti observed that the Respondent was excessively sweating and experiencing facial discoloration, give poor haircuts to clients, and saw the Respondent pick up a styling chair and throw it.

An “Order of Emergency License Suspension and Notice of Hearing” was issued by the Board on September 3, 2019. Effective immediately, the Respondent’s barber license was suspended and he was ordered not to practice barbering in this state until further notice. The Notice of Hearing scheduled an adjudicatory/disciplinary hearing for ten working days later, September 17th at 1:00 pm. The Respondent subsequently waived his right to a hearing within

ten working days and the hearing was rescheduled for September 23, 2019 at 12:00 pm. The Respondent appeared as scheduled.

As set forth in the September 3, 2019 Notice of Hearing, the relevant issues to be decided were:

- A. Whether, on or about August 22, 2019, the Respondent committed professional misconduct by cutting hair while impaired in violation of RSA 313-A:22, II (c);
- B. Whether, on or about August 22, 2019, the Respondent committed professional misconduct by throwing a stylist chair in City Barber Shop while clients were present in violation of RSA 313-A:22, II (c);
- C. Whether on or about August 22, 2019, the Respondent committed professional misconduct by using one towel to wipe sweat from his own face or body and then attempting to use the same towel to try to clean a client in violation of RSA 313-A:22, II (d);
- D. Whether the Respondent is addicted to drugs to a degree which renders him unfit to practice as a barber in violation of RSA 313-A:22, II (e); and
- E. If any of the above allegations were proven, whether and to what extent, Respondent should be subjected to one or more of the disciplinary sanctions authorized by RSA 313-A:22.

Hearing Counsel and Respondent Counsel agreed to stipulate to the following facts:

- A. The Board first granted a license to practice barbering to the Respondent on January 11, 2016.
- B. Respondent holds license number 29161.
- C. Respondent practices barbering in Keene, New Hampshire.
- D. Respondent has a substance use disorder.
- E. On or about August 22, 2019, Respondent was impaired while cutting hair at City Barber Shop in Keene, New Hampshire.
- F. On or about August 22, 2019, Respondent threw a chair in City Barber Shop.
- G. On or about August 22, 2019, Respondent took a towel that he had used to wipe away his own sweat and attempted to use the towel on a client.
- H. Respondent has been impaired while cutting hair on multiple occasions prior to August 22, 2019.

EXHIBITS

The Board accepted into evidence the following exhibits:

1. Stipulation of Facts;
2. Letter from Donna Ransmeier of Better Life Partners.

HEARING TESTIMONY

I. Hearing Counsel's Case

Hearing Counsel recognized that the Respondent took responsibility for his actions, including starting treatment prior to the hearing. Hearing Counsel recommended a reprimand on his license, a fine not to exceed \$1000.00, restrictions on the license including maintaining enrollment in a drug treatment program, meaningfully participating in drug counseling sessions at least once per week, drug testing twice per week results of which must be report to the Board within 24 hours, prohibition on using a straight edge razor, and a 30-day suspension retroactive to the September 3 suspension date.

II. Respondent's Case

Respondent's Counsel provided a letter and program information from Better Life Partners, which is a medication assisted opioid addiction treatment program. The letter from Donna Ransmier states that the Respondent has been in an opioid addiction treatment program since August 27, 2019 and is progressing well. The letter also states the Respondent has met the requirements of the program, including maintaining his medication regimen, weekly counseling, urine drug screening, peer support with group meetings, and monthly check-ins with a medical provider.

Respondent's Counsel testified that his client was in a program within 5 days of the August 22, 2019 incident. Respondent's Counsel requested that the Board only institute a once per week drug testing requirement because it would not be feasible to test twice per week. Respondent's Counsel also requested that the suspension be 30 days retroactive to August 27, 2019, the date Respondent started treatment. Respondent's Counsel further requested any fine and payment be suspended because the Respondent has limited resources, is the sole income earner in his household, and his medication costs \$200.00 per month. Respondent's Counsel testified that the Respondent has made a year-long commitment to Better Life Partners. Respondent's Counsel stated that the Respondent would comply with Hearing Counsel's request for restriction of the straight-razor, however, he also requested the Respondent be allowed to come before the Board within 30 days to have such a restriction lifted.

III. Rebuttal

In response to Respondent Counsel's testimony, Hearing Counsel testified, again, that they commend the Respondent for his first steps in treatment. Hearing Counsel testified that opioid addiction is very serious and this will be a long journey for the Respondent. Hearing Counsel requested an evaluation from a licensed alcohol and drug counselor. Hearing Counsel again recommended drug testing randomly twice per week to avoid usage of drugs in between.

In response to Hearing Counsel, Respondent's Counsel testified that two tests per week would prohibit him from working indefinitely because the programs do not offer it.

The Board did not have any questions for Hearing Counsel or Respondent Counsel.

FINDINGS OF FACT

The Board took into consideration all facts and testimony. As noted above, the Board accepted the joint stipulation of fact and adopted those facts as its findings. The Board found the facts as described in the narrative above to be true.

RULINGS OF LAW

1. On on or about August 22, 2019, the Respondent committed professional misconduct by cutting hair while impaired in violation of RSA 313-A:22, II (c);
2. On or about August 22, 2019, the Respondent committed professional misconduct by throwing a stylist chair in City Barber Shop while clients were present in violation of RSA 313-A:22, II (c);
3. On or about August 22, 2019, the Respondent committed professional misconduct by using one towel to wipe sweat from his own face or body and then attempting to use the same towel to try to clean a client in violation of RSA 313-A:22, II (d).
4. Respondent is addicted to drugs to a degree which renders him unfit to practice as a barber in violation of RSA 313-A:22, II (e).
5. The Board has authority to undertake disciplinary action against a licensee, after a hearing and a finding that the licensee has committed misconduct as described above or has engaged in acts that pose a threat to public health or safety pursuant to RSA 313-A:22 and Bar 402.03.

DISCIPLINARY ACTION

In determining whether and to what extent it should impose disciplinary sanctions, the Board considered the seven factors outlined in Bar 402.01(d). Specifically, the Board noted the seriousness of the offense, the licensee's prior disciplinary record, the licensee's acknowledgement of his wrongdoing, willingness to cooperate with the Board, and the potential harm to public health and safety.

THEREFORE IT IS ORDERED, that the Respondent is REPRIMANDED for his misconduct.

IT IS FURTHER ORDERED, that the Respondent's barber license is **SUSPENDED** until 60 days of consecutive clean history of drug testing is provided to the Board. Drug testing shall be performed twice a week. The Board shall not consider the presence of maintenance drugs to be a positive test. All reports of testing during the 60 days shall be provided to the Board within 24 hours.

IT IS FURTHER ORDERED, that when if/when the Respondents completes 60 consecutive days of clean testing subject to the conditions outlined in the paragraph above, the Respondent's full barber license shall be automatically reinstated. If/when the barber license is reinstated, Respondent shall be subject to period of probation for two years.

IT IS FURTHER ORDERED, the Respondent shall meaningfully participate in drug counseling sessions at least once per week during the probationary period.

IT IS FURTHER ORDERED, the Respondent shall provide monthly fitness to practice reports from a NH licensed drug and alcohol counselor (LADAC or MLADAC) during the probationary period. The reports shall include monthly random drug testing results. Any failure of drug testing shall be immediately reported to the Board. Failure of drug testing or failure to appear for drug testing may result in further disciplinary action, including emergency suspension or revocation of licensure.

IT IS FURTHER ORDERED, that Respondent pay the reasonable cost of investigation and prosecution of this proceeding, pursuant to RSA 332-G:11, in an amount of \$500.00, due in full to the Board by January 31, 2020.

IT IS FURTHER ORDERED, that the Respondent's failure to comply with any terms or conditions imposed by this Order shall constitute unprofessional misconduct pursuant to RSA 313-A:22, II (c), and a separate and sufficient basis for further disciplinary action against the licensee and an additional \$500.00 fine pursuant to Bar 404.10.

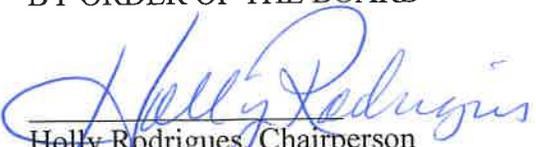
IT IS FURTHER ORDERED, that this Order shall become a permanent part of the Respondent's file, which is maintained by the Board as a public document.

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.

Date

10/7/19

BY ORDER OF THE BOARD


Holly Rodrigues, Chairperson
Authorized Representative of the Board